

**REQUEST FOR PROPOSALS**

**FOR**

**FC-8744, ANNUAL CONTRACT FOR MAJOR  
MECHANICAL REPAIRS & SERVICE**



**ATLANTA, GEORGIA**

**JoAnn Macrina, PE  
Commissioner  
Department of Watershed Management**

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP,  
CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
Department of Procurement**



## CITY OF ATLANTA

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Mayor

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DEPARTMENT OF PROCUREMENT  
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CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
[asmith@atlantaga.gov](mailto:asmith@atlantaga.gov)

March 4, 2016

### ATTENTION INTERESTED PROPONENTS:

Your firm is hereby invited to submit to the City of Atlanta (the "City"), Department of Procurement ("DOP"), a proposal for **FC-8744 Annual Contract for Major Mechanical Repairs and Service**. The City's DOP, on behalf of the Department of Watershed Management ("DWM"), is seeking proposals from qualified firms to perform mechanical work for repairs on major process and facility equipment at the Water & Wastewater Facilities.

A **Pre-Proposal Conference** will be held on **Tuesday, March 15, 2016, at 10:00 a.m. EDT**, at the DOP's Conference Room in Suite 1900. The purpose of the Pre-Proposal Conference is to provide Proponents with detailed information regarding the project and to address questions and concerns. There will be representatives from the DWM, the Ethics Office, the Office of Contract Compliance and Risk Management available at the conference to discuss this project and to answer any questions. A site tour is scheduled immediately following the Pre-Proposal Conference on Tuesday, March 15, 2016, and will include a visit to five (5) of the project facilities, beginning at the first site, R.M. Clayton Water Reclamation Center, 2440 Bolton Road, NW, Atlanta, Georgia 30318. Proponents attending the tour will be required to sign a release form for the Site Visit (See Part 4 of the Request for Proposals). Further details regarding the Site Visit will be provided at the Pre-Proposal Conference. Attendance at the Pre-Proposal Conference and Site Visits is **strongly** encouraged for each Proponent desiring to submit a proposal.

Proponents will be allowed to ask questions during the Pre-Proposal Conference. However, please note that oral answers to questions during the Pre-Proposal Conference on March 15, 2016, are **not** authoritative. The last date to submit questions in writing is Friday, **March 18, 2016 by noon, EDT**. Questions may be sent via email to [jnwebb@atlantaga.gov](mailto:jnwebb@atlantaga.gov), or facsimile at 404-494-6893.

Your response to this Request For Proposal ("RFP") will be received by designated staff of the Department of Procurement at City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303, **no later than 2:00 p.m., EDT, Tuesday, April 19, 2016.**

**\*\*ABSOLUTELY NO PROPOSALS WILL BE ACCEPTED AFTER 2:00 P.M.\*\***



**Request for Proposals**  
**FC-8744, Annual Contract for Major**  
**Mechanical Repairs and Service**  
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Proposals will be publicly opened and read at 2:01 p.m., EDT on the respective due date in the Department of Procurement, City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303.

This RFP is being made available by electronic means. If accepted by such means, then the Proponent acknowledges and accepts full responsibility to insure that no changes are made to the Proposal. In the event of conflict between a version of the Proposal in the Proponent's possession and the version maintained by DOP, the version maintained by the DOP shall govern.

The Proposal document may also be obtained from the Department of Procurement's Plan Room, City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303, at a cost of \$75.00 per package, beginning on March 4, 2016.

You are required to email and confirm receipt of your business name, contact person, address, phone number, fax number and the project number to the DOP's Plan Room at [dop@atlantaga.gov](mailto:dop@atlantaga.gov), to be placed on the Plan Holders List. Failure to do so will prevent you from receiving any addenda that are issued and may deem you non-responsive. Any questions regarding the procedures for purchasing a copy of the document or obtaining a copy of the Plan Holder's list should be directed to the Plan Room at (404) 330-6204.

All questions and inquiries concerning this project should be directed in writing to Joyce Webb, Contracting Officer, Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303 or questions may be e-mailed to [jnwebb@atlantaga.gov](mailto:jnwebb@atlantaga.gov).

The City reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all proposals when it is for good cause and in its best interest.

Thank you for your interest in doing business with the City.

Sincerely,



Adam L. Smith

ALS/jnw



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# PART 1

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## INFORMATION AND INSTRUCTIONS TO PROponents

**FC-8744, ANNUAL CONTRACT FOR MAJOR MECHANICAL  
REPAIRS AND SERVICE**

**PART 1: INFORMATION AND INSTRUCTIONS TO PROPONENTS**

1. **Work Being Procured:** This Request for Proposals (“RFP”) from qualified proponents (“Proponent” or “Proponents”) by the City of Atlanta (“City”), on behalf of its Department of Watershed Management (“DWM”), seeks to procure work (“Work”) for the following project: Contract No. FC-8744, Annual Contract for Major Mechanical Repairs and Service. The RFP includes the following parts, including exhibits, attachments and appendices:
  - ◆ Part 1 – Information and Instructions to Proponents
  - ◆ Part 2 – Contents of Proposals / Required Submittals
  - ◆ Part 3 – Evaluation of Proposals
  - ◆ Part 4 – Required Procurement Documents
  - ◆ Part 5 – City Contractor Agreement
  - ◆ Appendices
  
2. **Scope of Work:** The Project involves mechanical repairs and improvements on major process, facility equipment, and facility infrastructure beyond the capabilities of in-house staff. Examples include service and repair of chemical feed facilities, compressed air systems, bar screens, boilers, clarifiers, horizontal screw conveyors, filters, general facility maintenance, heat exchangers and HVAC equipment. Work to be rendered by the Proponent(s) to complete the project are provided in more detail in Exhibit A - Scope of Work documents included herein.
  
3. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta’s Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the work sought in this RFP is Code Section 2-1189; Competitive Sealed Proposal. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City’s Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
  
4. **Minimum Qualifications; Authority to Transact Business in Georgia:**
  - 4.1 Each Proponent must submit with its Proposal documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
  - 4.2 Proponent shall not have been terminated for cause from any City contract in the preceding ten (10) years nor shall Proponent have any active litigation or claims pending against the City of Atlanta, Georgia.
  - 4.3 Proponent shall have successfully completed at least three (3) projects of similar size and scope of this Project.

5. **No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm offer and may not be withdrawn except under the rules specified in City's Code of Ordinances and other applicable law.
6. **Proposal Deadline:** Your response to this RFP must be received by the City's Department of Procurement ("DOP"), 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303-0307 no later than **2:00 p.m., EDT** (as verified by the Bureau of National Standards) on **Tuesday, April 19, 2016**. Any Proposal received after this time will not be considered and will be rejected and returned.
7. **Pre-Proposal Conference:** Each Proponent is strongly encouraged to attend the Pre-Proposal Conference scheduled for **Tuesday, March 15, 2016, at 10:00 a.m.**, at the DOP's Conference Room in Suite 1900. The Site Visits will be held immediately following the Conference at **11:30 A.M.** The site tour will include five (5) sites beginning at the R.M. Clayton Water Reclamation Center, 2440 Bolton Road, NW, Atlanta, Georgia 30318. The remaining four (4) sites include the West Area CSO Treatment Facility, 2440 Bolton Road, NW, Atlanta, Georgia 30318; Nancy Creek Pumping Station, 2440 Bolton Road, NW, Atlanta, Georgia 30318; Chattahoochee Water Treatment Plant, 2532 Bolton Road, NW, Atlanta, Georgia 30318; and Hemphill Water Treatment Plant, 650 Bishop Street, NW, Atlanta, Georgia 30318. Potential Proponents desiring to visit any of the other sites included in this RFP should contact Joyce Webb, Contracting Officer to schedule a visit. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Work. Any failure to fully investigate the Jobsite(s) shall not relieve any Proponent from responsibility from evaluating properly the difficulty or cost of successfully performing the Work.
8. **Proposal Guarantee:**
- 8.1 Each Proponent is required to furnish a Proposal Guarantee in the amount of five percent (5%) of the Lump Sum Amount. At the option of the Proponent, the Proposal Guarantee may also be cash, a certified check payable to the order of City or a Proposal Bond as provided on Form 8 included in Part 4 herein. A surety executing a Proposal Bond must meet the requirements set forth in Appendix B-Insurance and Bonding Requirements attached to the Agreement included in this RFP.
- 8.2 No Proposal shall be considered unless it is accompanied by the required guarantee. The Proposal Guarantee shall insure the execution of the Agreement and the furnishing of the performance and payment bonds and insurance by the successful Proponent as required by the Agreement Documents.
- 8.3 Each Proponent agrees that, if it is awarded the Agreement and fails to execute provide all other documents required to consummate the transaction within fifteen (15) days of the award, City will retain the Proposal Guarantee as liquidated damages and not as a penalty.

8.4 Attorneys-in-fact who sign Proposal Bonds must file with the bond a certified and effectively dated copy of their power of attorney.

9. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to, Joyce Webb, Contracting Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, by fax (404) 739-4683 or e-mail [jwebb@atlantaga.gov](mailto:jwebb@atlantaga.gov), and must be received by **5:00 p.m., EDT on Friday, March 18, 2016**. Questions received after the designated period may not be considered. Any response made by the City will be provided in writing to all Proponents by Addendum. It is the responsibility of each Proponent to obtain a copy of any Addendum issued for this procurement by monitoring the City's website at [www.atlantaga.gov](http://www.atlantaga.gov) and its Department of Procurement's Plan Room which is open during posted business hours, Suite 1900, 1<sup>st</sup> Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All Proponents and representatives of any Proponent are **strictly prohibited** from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.

10. **Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.

11. **Georgia Utility Contractor's License:** The Proponent shall provide its Georgia Utility Contractor's License Number and a copy of the license with the documentation submitted in Part 4 of this RFP. A utility Contractor's license number held by a Subcontractor or issued by another state does **NOT** fulfill this requirement in lieu of the Proponent's Georgia Utility Contractor's License.

12. **Preparation of Proposals:** All Proposals must be submitted on forms supplied by the City and shall be subject to all requirements of the Agreement Documents. All Proposals must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Proposal by the Proponent.

12.1 Lump sum, unit price, and extensions of unit prices must be entered in the appropriate spaces provided on the Proposal Cost Form. Unit prices shall include an appropriate allocation of overhead and other indirect costs so that the summation of unit price extensions and lump sum items represent the Proposal Total amount. In the case of any Proposal item for which a fixed amount predetermined by the City has already been entered on the Proposal Cost Form, the amount so entered shall be conclusive of all Proponents as the price for such item, and shall not be revised unless the City directs a change in the Scope of Work affecting the item to which such amount relates.

12.2 The City may consider as irregular any conditional Proposal or any Proposal on which there is an alteration of, or departure from, the Proposal Cost Form hereto attached and at its option may reject the same.

12.3 Erasure or other changes in the Proposals must be explained or noted over the signature of the Proponent. Failure to do so shall render the Proponent as non-responsive and cause rejection of the Proposal.

12.4 Failure to execute the Proposal Cost Form documents may render the Proponent as non-responsive and cause rejection of the Proposal.

13. **Georgia Open Records Act:** Each Proponent shall refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

14. **How to Submit Proposals:** The Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: **FC-8744; Annual Contract for Major Mechanical Repairs and Service** and, the name and address of the Proponent. All proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP,  
CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
Department of Procurement  
55 Trinity Avenue, S.W.  
City Hall South, Suite 1900  
Atlanta, GA 30303-0307**

14.1 A Proponent is required to submit one (1) original and six (6) copies of its Informational Proposal. Each Informational Proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, using 12-point font size and such pages must be inserted in a standard three-hole ring binder. Each Informational Proposal must contain an index and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted.

14.2 In addition to the hard copy submission, each Proponent must submit two (2) digital versions of its Proposal in Adobe Portable Document Format (PDF) on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy Proposal. CD Two (2) version should be a redacted version of your hard copy Proposal. Please refer to the Georgia Open Records Acts (O.C.G.A. Section 50-18-72) for those items of documents that can be redacted.

14.3 The City assumes no liability for differences in information contained in the Proponent's printed Proposal and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

14.4 A Proponent is required to submit, in a separate, sealed envelope, clearly marked "Cost Proposal", one (1) original, marked "Original" and six (6) copies of its Cost Proposal with its Informational Proposal.

**15. Execution of Proposal Documents:** Proponents shall submit their Proposals, together with the Proposal Guarantee and all forms which the Proponent is required to sign, executed in the appropriate manner as set forth below:

**15.1** If the Proponent is a corporation, all documents requiring execution by the Proponent shall be signed by the president or vice-president of the corporation, whose signature shall be attested by the secretary or assistant secretary of the corporation and the corporate seal affixed.

**15.2** If the Proponent is an individual, he or she shall sign the documents and his or her signature shall be notarized by a notary public.

**15.3** If the Proponent is an individual doing business under a trade name, all documents shall be signed by the Proponent whose signature shall be followed by either, "doing business as," or "trading as," followed by the trade name of the Proponent's business, and notarized by a notary public.

**15.4** If the Proponent is a partnership, all forms shall be executed by placing the name of the partnership followed by "By: (the signature of the partner executing)" followed by the word "Partner," and notarized by a notary public.

**15.5** If the Proponent is a joint venture, each party to the joint venture shall execute the Proposal Documents in the manner set forth in this article as appropriate for this type of organization.

**16. Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in the Insurance and Bonding Requirements included in the appendix of this RFP.

**17. Applicable City Office of Contract Compliance ("OCC") Programs:** The OCC Programs applicable to this procurement are set forth in Appendix A; Office of Contract Compliance Requirements, included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.

**18. Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. The City will review the information included in **Form 3; Proponent Financial Disclosure** attached to this RFP and any additional information required on that form to be included in a Proposal. Further, if this RFP requires the provision of a Payment Bond and/or Performance Bond if an Agreement is awarded, the City will review the information included in **Form 4.2; Certification of Bonding Ability**. A Proponent may include with that form and **Form 4.1; Certification of Insurance Ability**, (a) notarized letter(s) from its proposed insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if an Agreement is awarded. Further, if this RFP requires a successful Proponent that is awarded an Agreement pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its

Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if an Agreement is awarded to it.

**19. Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers listed in the Proposal and to submit other material information relative to proposed subcontractors. City reserves the right to disapprove any proposed subcontractors or equipment manufacturers who's technical or financial ability or resources or whose experience are deemed inadequate.

**20. Examination of Proposal Documents:**

**20.1** Each Proponent is responsible for examining with appropriate care the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Work. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Work in its Proposal.

**20.2** Each Proponent shall promptly notify City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an Addendum to the RFP, which will be issued simultaneously to all potential Proponents who have obtained the RFP from City.

**20.3** City may in accordance with applicable law, by Addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time. The Proponent shall not rely on oral clarifications to the RFP unless they are confirmed in writing by City in an issued Addendum.

**20.4** Each Proponent must confirm Addenda have been received and acknowledge receipt by executing the Form 5: Acknowledgment of Addenda attached to this RFP.

**21. Oral Presentations:** Responsive Proponents may be required to participate in an oral presentation to the City Evaluation Committee. The Key Personnel (or some group thereof) identified in the Proponent's Proposal must be active participants in the oral presentation. The Proponent's presentation should demonstrate an understanding of the project and work to be provided. The City will notify responsive Proponent(s) of the date, time and location for the presentation and will provide an agenda or topics for discussion.

**22. Cancellation of Solicitation:** This solicitation may be cancelled in accordance to the City of Atlanta Code of Ordinances.

**23. Award of Agreement; Execution:** If the City awards an Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in this RFP. Subsequent to the award and within fifteen (15) days after the prescribed forms are presented for signature, the successful

Proponent shall execute and deliver to the City seven (7) copies of the Agreement as included in the Agreement Documents and provide performance and payment bonds and insurance certificates. The failure of the successful Proponent to execute the Agreement and to supply the required bonds within fifteen (15) days after the prescribed forms are presented for signature, or within such extended period as the City may grant, based upon reasons determined sufficient by the City, shall constitute a default, and the Proponent shall forfeit the Proposal Guarantee and the City may either award the Agreement to the next most responsive Proponent or re-advertise for Proposals, and may proceed against the Proposal Bond of the defaulted Proponent. If a more favorable Proposal is received by re-advertising, the defaulting Proponent shall have no claim against the City for a refund.

**24. Surety Bonds:** Regarding submission of surety bonds prior to or subsequent to the Proposal submission, the following requirements pertain:

- 24.1 Any surety bond submitted in accordance with the Proposal or Agreement requirements must be issued by a corporate surety company satisfactory to the City and authorized to act as such in the State of Georgia;
- 24.2 Such bonds shall conform to the forms provided with the RFP and be completed in accordance with the instructions thereon; and
- 24.3 In accordance with Georgia law, and upon award of the Agreement, separate performance and payment bonds shall be required of the successful Proponent, each in an amount not less than the total amount payable under the Agreement.
  - 24.3.1.1 The performance bond shall remain in effect for two (2) years after final acceptance of the Work or the guaranty period under the Agreement, whichever is the longer.
  - 24.3.1.2 The payment bond shall remain in effect for the period required under Georgia law for the payment bonds on public construction agreements. Reference is made to the bond forms and the Agreement Documents for additional particulars of the terms required in the bonds. In the case of any inconsistency between the Bond Forms and Georgia law, the law shall control. Finally, alterations, extension of the time allowed for performance, extra and additional Work, and other changes authorized under the Agreement may be made without notice to or consent of the surety or sureties.

**25. Laws and Regulations:** The Proponent's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Agreement throughout, to the extent that such requirements do not conflict with federal laws or regulations, and they will be deemed to be included in the Agreement the same as though therein written out in full.

Proponent's attention is directed to the following laws and regulations:

- 25.1 Wages under this Agreement must not be less than the minimum wage rates specified for Atlanta-funded projects as set forth in these documents;
- 25.2 Applicable provisions of the Occupational Safety and Health Act must be observed during Work under this Agreement; and

25.3 Appendix A – Requirements of the Office of Contract Compliance.

- 26. Agreement Terms:** The term of the Contract shall be one (1) year with two (2) additional one (1) year renewal terms at the sole discretion of the City.
- 27. Liquidated Damages:** The performance of the Work under Agreement within the specified time is essential to the City's economic interests. The attention of potential Proponents is directed to the provisions of the Agreement Documents, which establish the basis for liquidated damages to be paid to the City in the event that the Work is not completed on schedule.
- 28. Pre-Construction Conference:** A pre-construction conference may be held with the successful Proponent and all known Subcontractors at a time and place set by the City.
- 29. Substitutions:** Whenever a Material, article or piece of Equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, and any Material, article or Equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the Material, article or Equipment so proposed is, in the opinion of the City, of equal substance and function. A Material, article or piece of Equipment shall not be purchased or installed by the Proponent without the City's written approval.

**29.1** If the term "OR EQUAL" follows the names of approved manufacturers, then other manufacturers desiring approval may submit the product to the City for approval during the bidding phase. The manufacturer should include the following items in this pre-submittal:

- 29.1.1** Descriptive literature, including information on Materials used, minimum design standards features, manufacturing processes and facilities, and similar information, which will indicate experience and expertise in the manufacture of the product being evaluated;
- 29.1.2** Performance Specifications applicable to the manufacturer's standard design, which indicate the level of performance to be expected from the product;
- 29.1.3** A complete set of submittal Drawings of similar Equipment that has been completed and placed into operation;
- 29.1.4** A list of existing installations of equipment similar in type and size;
- 29.1.5** Evidence of technical ability of the manufacturer to design and manufacture Equipment and systems meeting project requirements. Evidence submitted shall include, at a minimum, descriptions of engineering and manufacturing staff capabilities;
- 29.1.6** Information required to satisfy specified experience requirements or a copy of the bond to be submitted in lieu of experience;

- 29.1.7 A complete description of field services capabilities, including the location of field service facilities which would serve the proposed facility and the number and qualifications of personnel working from that location;
- 29.1.8 A complete list of all requirements of the Drawings and Specifications with which the manufacturer cannot conform, including reasons why alternate features are considered equivalent; and
- 29.1.9 All other information necessary to fully evaluate the product for consideration.
- 29.2 This pre-submittal shall reach the City no later than three (3) weeks prior to the Proposal due date. Manufacturers will be advised of approval or rejection in writing no later than fourteen (14) days prior to the Proposal due date. Rejected submittals may be supplemented with additional information and resubmitted no later than one (1) week prior to the Proposal due date. Manufacturers making supplementary submittals will be advised of approval or rejection in writing no later than three (3) days prior to the Proposal due date.
- 29.2.1 NOTE: Proposals based on Equipment, which has not received the approval of the City, will render the Proponent as non-responsive and cause rejection of the Proposal.
- 29.2.2 If the term "EQUAL TO" precedes the names of approved manufacturers in the Specifications, the Proponent may, after receiving the Notice to Proceed, submit Shop Drawings on the substitute product for the approval of the City.
- 29.2.3 Any Proponent intending to furnish substitute products is cautioned to verify that the item being furnished will perform the same functions and have the same capabilities as the item specified. The Proponent shall include in his Proposal the cost of accessory items, which may be required by the substitute product and any architectural, structural, mechanical, piping, electrical or other modifications required to accommodate the substitution.
- 29.2.4 Approval of the City is dependent on his determination that the product offered is essentially equal in function, performance, quality of manufacture, ease of maintenance, reliability, service life and other criteria to that on which the design is based, and will require no major modifications to structures, electrical systems, control systems, or piping systems.
- 30. Illegal Immigration:** Each Proponent must complete and submit a Contractor's Affidavit, attached hereto as Form 1; Illegal Immigration Reform and Enforcement Act Forms with its Proposal. This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 (the "Act"). Pursuant to the Act, the Proponent must provide with its proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. Under state law, the City cannot consider any Proposal which does not include a completed Contractor's Affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act

and assessing its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to <https://e-verify.uscis.gov/enroll>.

- 31. Multiple Awards:** The City reserves, at its sole discretion, the option to award to multiple Proponents. The award(s) will be based on the Scope of Work in its entirety or by components. Multiple awards may be made on the total Scope of Work or to components of the Scope of Work.
- 32. Conflict of Interest:** The City has contractual commitments and may have engaged numerous firms providing/or have provided various professional services to the Owner for this Project. These firms and their respective sub-consultant firms may be contractually prohibited from participation in specific work phases of the Project. The Proponent must ensure that all entities with which it contracts have reviewed their contractual obligations and that a conflict of interest would not exist by performing Work on the Project.

## PART 2

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# CONTENTS OF PROPOSALS/REQUIRED SUBMITTALS

## **Part 2; Contents of Proposals/Required Submittals**

1. **General Contents of Proposals:** A Proponent must submit a complete Proposal in response to this RFP in the format specified in this RFP; no other format will be considered. A Proposal will consist of two (2) separate documents:
  - 1.1. Informational Proposal; and
  - 1.2. Cost Proposal (Form provided by City at Part V; Annual Construction Services Agreement; Exhibit A.1 - Cost Proposal).
2. **Informational Proposal:** An Informational Proposal is comprised of 2 sources of information:
  - 2.1. Volume I, information drafted and provided by a Proponent; and
  - 2.2. Volume II, information provided by a Proponent on forms provided by the City (or required to be created by a Proponent) in this RFP.

**The Informational Proposals must be tabbed as indicated to reflect the sections listed in the Outline below.**

3. **Information required to be included in Informational Proposal:**
  - 3.1. Summary: The following is a summary of information required to be contained in an Informational Proposal:
    - 3.1.1. Information Drafted and Provided by a Proponent: This information should be included in **Volume I** of the Proposal:
      - 3.1.1.1. Executive Summary;
      - 3.1.1.2. Organizational Structure;
      - 3.1.1.3. Experience and Qualifications of Key Personnel;
      - 3.1.1.4. Overall Experience, Qualifications and Performance on Previous Similar Projects; and
      - 3.1.1.5. Management Plan.
    - 3.1.2. Information Provided by a Proponent on Forms Provided by the City ("Required Submittals"): This information should be included in **Volume II** of the Proposal:
      - 3.1.2.1. Form 1; Georgia Illegal Immigration Reform and Enforcement Act (IIREA);
      - 3.1.2.2. Form 2; Contractor Disclosure Affidavit and Questionnaire;
      - 3.1.2.3. Form 3; Proponent Financial Disclosure;
      - 3.1.2.4. Form 4.1; Certificate of Insurance Ability;
      - 3.1.2.5. Form 4.2; Certification of Bonding Ability;
      - 3.1.2.6. Form 5; Acknowledgment of Addenda;

- 3.1.2.7. Form 6; Proponent Contact Directory;
- 3.1.2.8. Form 7; Reference List;
- 3.1.2.9. Form 8; Proposal Bond;
- 3.1.2.10. Form 9; Required Submittal Checklist;
- 3.1.2.11. Statement of Qualifications;
- 3.1.2.12. Safety Record Form;
- 3.1.2.13. Site Tour Release Form
- 3.1.1.14. Authority to Transact Business in the State of Georgia;
- 3.1.1.15. Georgia Utility Contractor's License; and
- 3.1.1.16. Appendix A; City's OCC Programs; Office of Contract Compliance Requirement forms and submittals, including Joint Venture agreement, if applicable.

**NOTE: Every space on every form must be completed. If the form requires a Notary, please comply. Failure to complete each form as required may deem you non-responsive. If there are any questions regarding any form, it is strongly recommended that you submit your question(s) to the Contracting Officer listed in the RFP prior to the deadline for submitting questions.**

**3.2. Information Requirements Details:** The following is a more detailed summary of the requirements of certain portions of the Informational Proposal. Each Outlined Item should be included in your Proposals and tabbed as indicated:

**3.2.1. Executive Summary (Tab in Volume I)**

**3.2.1.1. Cover Letter:** The executive summary must include a letter with the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The letter should also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter should also designate the type of business entity that proposes to enter into a Contract with the City and the identity of any other business entities that will comprise the Proponent and include a brief history of the Proponent and statement of the Proponent's approach to providing the services solicited in this RFP.

**3.2.1.2. Detailed Executive Summary:** The purpose of the Detailed Executive Summary is to provide an overview of the Proponent's qualifications to accomplish the project. At a minimum, the Detailed Executive Summary must contain the following information:

- 3.2.1.2.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices;
- 3.2.1.2.2. The general and specific capabilities and experience of the Proponent's Team. Each Proponent must identify examples where team members have worked together to complete a project. Discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;
- 3.2.1.2.3. A description of the Proponent's plan for complying with the City's EBO goals. This section should include detailed information regarding the essential subcontractors/ sub consultants the Proponent intends to use and should indicate the roles and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/sub consultant indicating that the firm concurs with the role and responsibility Proponent has described; and
- 3.2.1.2.4. Litigation Disclosure Statement. A declarative statement as to whether the Proponent or any member of the Proponent's team has an open dispute with the City or is involved in any litigation associated with work in progress or completed work in either the private or public sector during the past five (5) years.
- 3.2.1.2.5 The Executive Summary. The Executive Summary will be evaluated based on completeness of the information requested in a concise, easily understood form.

**3.2.2. Organizational Structure (Tab in Volume I):** The organization will be evaluated based on completeness of the information requested in a concise, easily understood form. The Proponent's Organizational Structure Section of the Proposal should introduce the proposed Proponent's team by:

- 3.2.2.1. Providing the Proponent's Management Organizational Chart both graphically and in narrative format. The Organizational chart and narrative should provide a description of the Proponent's views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel roles to that of the Principal-in-Charge and other key members of the management team;

- 3.2.2.2 Providing a description of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the Organizational structure; and
- 3.2.2.3. Providing the names of proposed candidates for each function on the chart;

**3.2.3. Key Personnel/Resumes:**

3.2.3.1. Identify and provide an organizational chart and resumes for the individuals that the Proponent will use as Key Personnel. The resumes should detail the minimum qualifications as listed with respect to the position identified. Key Personnel will include but is not limited to the following:

- 3.2.3.1.1. Project Manager - Minimum of five (5) years of experience
- 3.2.3.1.2. Lead Mechanical Supervisor - Minimum of five (5) years of experience
- 3.2.3.1.3 Project Coordinator/Project Scheduler – minimum of three (3) years of experience
- 3.2.3.1.4 Billing Specialist – minimum of three (3) years of experience

3.2.3.2 Resumes should be organized as follows:

- 3.2.3.2.1. Name and Title;
- 3.2.3.2.2. Professional Background;
- 3.2.3.2.3. Current and Past Relevant Employment;
- 3.2.3.2.4. Education;
- 3.2.3.2.5. Certifications;
- 3.2.3.2.6. List of (4) Relevant projects, including:
- Client name;
  - Project description;
  - Project value;
  - Role of the individual;
  - The original contract schedule to start and complete the project; and
  - The actual start and completion dates of the project.

3.2.3.3. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City. In the event there is a need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

**3.2.4. Overall Experience, Qualifications and Performance on Previous Projects (Tab in Volume I):**

- 3.2.4.1. Proponents should detail their relevant experience, qualifications, Performance and capabilities for performing the services outlined in the Exhibit A; Scope of Work. Proponents should also include: Work product examples from similar projects.
- 3.2.4.2. A detailed history for Proponent's and subcontractor or sub consultant's work performing the services outlined in Exhibit A.
- 3.2.4.3. Four (4) letters of reference (on the reference's letterhead) where the Proponent implemented similar projects. Include a contact name, address, phone number, email address and project value (minimum project budget of two hundred and fifty thousand dollars (\$250,000.00)).

**3.2.5. Management Plan and Project Approach (Tab in Volume I):** Based on the Proponent's Organizational structure, describe how the Proponent will manage the Services, specifically addressing the following:

- 3.2.5.1. Proponent's approach to team leadership;
- 3.2.5.2. How the Proponent will:
  - 3.2.5.2.1. Ensure proper communications among pertinent project team members;
  - 3.2.5.2.2. Assure the City that the Scope of Services will be kept within any established time and budget constraints;
  - 3.2.5.2.3. Establish and maintain the necessary cooperative relationships;
  - 3.2.5.2.4. Coordinate all necessary project activities within that team relationship;
  - 3.2.5.2.5. The tools that are intended to be used to manage these project elements; and
  - 3.2.5.2.6. Proponent's proposed method to:
    - A. Identify and resolve issues during the project duration;
    - B. Detail how emergencies will be handled; including response times for emergencies (include a map of Proponent's local office in relation to the City's center.);
    - C. Make critical decisions.
  - 3.2.5.2.7. Describe the management process the Proponent will implement to ensure all work and services performed are to the highest quality. The approach should include a description of the Proponent's process as it pertains to equipment, methods, techniques and procedures used to ensure accurate and comprehensive set of deliverable products. Describe the proponent corrective action plan. Describe how the Proponent's organization structure supports this plan and clearly identify responsible and accountable parties.
  - 3.2.5.2.8. Proponent must provide a description of the approach to the Scope of Work. All proposals must be comprehensive

and include a detailed pilot project timeline and complete project timeline to go along with their narrative.

4. **Cost Proposal.** Each Proponent must submit a Cost Proposal using the form provided by the City at Part 5; Construction Services Agreement; Exhibit A.1- Cost Proposal. The Cost Proposal must support the Scope of Work contained in the RFP and fully encompass all activities in the Proponent's Proposal. The Cost Proposal shall serve as the baseline for final fee negotiation with the City. **Submit one (1) original, marked "Original" and six (6) copies in a separate envelope.**
  
5. **Submission of Proposals:** See Part 1, Paragraph 14.0, "How to Submit Proposals" of this RFP.

## PART 3

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# EVALUATION OF PROPOSALS

### Part 3; Evaluation of Proposals

All Proposals will be evaluated in accordance with the City's Code of Ordinances and the criteria specified on the Percentage Evaluation Form and considering the information required to be submitted in each Proposal. An Evaluation Committee will review the Proposals in accordance with this RFP.

All Proposals will be evaluated using the following Evaluation Form:

<b>RELATIVE WEIGHT</b>	<b>GRADED ITEM</b>	<b>SCORE</b>
<b>5</b>	<b>Cover Letter/Executive Summary</b>	
<b>15</b>	<b>Organizational Structure</b>	
<b>10</b>	<b>Experience and Qualifications of Key Personnel</b>	
<b>10</b>	<b>Overall Experience, Qualifications and performance on Previous Similar Projects</b>	
<b>10</b>	<b>Management Plan</b>	
<b>10</b>	<b>Financial Capability</b>	
<b>25</b>	<b>Cost Proposal</b>	
<b>15</b>	<b>OCC Programs</b>	
<b>100%</b>	<b>TOTAL SCORE</b>	

## PART 4

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### REQUIRED SUBMITAL FORMS

# PART 4: REQUIRED SUBMITTAL FORMS

All Respondents, including, but not limited to, corporate entities, limited liability companies, joint ventures, or partnerships, that submit a Proposal or Bid in response to this solicitation must fill out all forms in their entirety, and all forms must be signed, notarized or sealed with the corporate seal (if applicable), as required per each form's instructions.

If Respondent intends to be named as a Prime Contractor(s) with the City, then Respondent must fill out all the forms listed in this solicitation document; otherwise, Respondent may be deemed non-responsive.

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 1 of 3)**

**INSTRUCTIONS TO PROPONENTS:**

All Proponents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Proponents must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Proposal prior to Proposal due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit.

**Example 1**, ABC, Inc. and XYZ, Inc. form and submit a Proposal as Happy Day, LLC. Happy Day, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Happy Day, LLC which includes the Federal Work Authorization User ID Number issued to Happy Day, LLC.

**Example 2**, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a Proposal under the name Happy Day, JV. If, based on the nature of the JV agreement, Happy Day, JV. is not required to obtain an Employer Identification Number from the IRS, the Proposal submitted by Happy Day, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be duly notarized.
6. All Contractor Affidavits must be submitted with the Proponent's Response to the RFP.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of proposal submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 2 of 3)**

**Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Contractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 3 of 3)**

**Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with \_\_\_\_\_ (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Subcontractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 1 of 7)**

**DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE AFFIDAVIT**

"Affiliate"	Any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Respondent or a member of Respondent.
"Contractor"	Any person or entity having a contract with the city.
"Control"	The controlling entity: (i) possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or (ii) has direct or indirect ownership in the aggregate of fifty one (51%) or more of any class of voting or equity interests in the controlled entity.
"Respondent"	Any individual or entity that submits a proposal in response to a solicitation. If the Respondent is an individual, then that individual must complete and sign this Disclosure Affidavit where indicated. If the Respondent is an entity, then an authorized representative of that entity must complete and sign this Disclosure Affidavit where indicated. <b>If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Disclosure Affidavit where indicated, and each of the members or owners of the entity must also complete and sign separate Disclosure Affidavits where indicated.</b>

**Instructions:** Provide the following information for the entity or individual completing this Statement (the "Individual/Entity").

**A. Basic Information:**

1. Name of Individual/Entity responding to this solicitation:
  
2. Name of the authorized representative for the responding Entity:

**B. Individual/Entity Information:**

1. Principal Office Address:
  
2. Telephone and Facsimile Numbers:
  
3. E-Mail Address:
  
4. Name and title of Contact Person for the Individual/Entity:
  
5. Is the individual/Entity authorized to transact business in the state of Georgia?

Yes (Attach Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)

No

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 2 of 7)**

**C. Questionnaire**

If you answer "YES" to any of the questions below, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your Proposal.

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business.

2. Are there any lawsuits, administrative actions or litigation to which Respondent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct? YES    NO

3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved. YES    NO    N/A

4. Has the Respondent been charged with a criminal offense within the last ten (10) years? YES    NO

5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received. YES    NO

6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:

(a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors? YES    NO

(b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice? YES    NO

(c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent. YES    NO

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 3 of 7)**

7. Has any employee, agent or representative of Respondent who is or will be directly involved in the project, in the last ten (10) years:

(a) directly or indirectly, had a business relationship with the City?

YES NO

(b) directly or indirectly, received revenues from the City?

YES NO

(c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?

YES NO

8. Whether any employee, agent, or representative of Respondent who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee?

YES NO

9. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City?

YES NO

10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years?

YES NO

11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government?

YES NO

12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?

YES NO

13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below [*Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided*]:

(a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee.

YES NO

(b) Financial relationships: Respondent must disclose any interest held with a City employee or official, or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe:

YES NO

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**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 4 of 7)**

## **D. REPRESENTATIONS**

**Anti-Lobbying Provision.** All respondents, including agents, employees, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the respondent's disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process.

**Certification of Independent Price Determination/Non-Collusion.** Collusion and other anticompetitive practices among Proponents are prohibited by city, state and federal laws. All Respondents shall identify a person having authority to sign for the Respondent who shall certify, in writing, as follows:

"I certify that this bid proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an bid or offer for the same supplies, labor, services, construction, materials or equipment to be furnished or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. By signing this document, I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent."

**Certify Satisfaction of all Underlying Obligations. (If Applicable)** If a Contract is awarded through this solicitation, then such Contractor should know that before final payment is made to a Contractor by the City, the Contractor shall certify to the City in writing, in a form satisfactory to the City, that all subcontractors, materialmen suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Contractor by the City or will be paid in full utilizing the monies constituting final payment to the Contractor.

**Confidentiality** . Details of the proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all proposals and information submitted therein may become subject to public inspection following award of the contract. Each respondent should consider this possibility and, where trade secrets or other proprietary information may be involved, may choose to provide in lieu of such proprietary information, an explanation as to why such information is not provided in its proposal. However, the respondent may be required to submit such required information before further consideration.

**Equal Employment Opportunity (EEO) Provision.** All bidders or Proponents will be required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances, as follows: During the performance of the agreement, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee, or applicant for employment, because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include without limitation the following:

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 5 of 7)**

Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO clause.

- b. The Contractor shall, in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.
- c. The Contractor shall send to each labor union or representative of workers with which the Contractor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under the equal employment opportunity program of the City of Atlanta and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.
- d. The Contractor shall furnish all information and reports required by the contract compliance officer pursuant to the Code of Ordinances, and shall permit access to the books, records, and accounts of the Contractor during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.
- e. The Contractor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will enter into such litigation as is necessary to protect the interest of the city and to effectuate the equal employment opportunity program of the city; and, in the case of contracts receiving federal assistance, the Contractor or the city may request the United States to enter into such litigation to protect the interests of the United States.
- f. The Contractor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the contract compliance officer. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its subcontractors.

**Required Submittal (FORM 2)**  
**Contractor Disclosure Affidavit (Page 6 of 7)**

- g. The Contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- h. A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
  - (1) Withholding from the Contractor in violation all future payments under the involved contract until it is determined that the Contractor or subcontractor is in compliance with the provisions of the contract;
  - (2) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the Contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
  - (3) Cancellation of the public contract;
  - (4) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of Contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

**Prohibition on Kickbacks or Gratuities/Non-Gratuity.** The undersigned acknowledges the following prohibitions on kickbacks and gratuities:

- a. It is unethical for any person to offer, give or agree to give any employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- b. It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- c. It is also unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.



**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 1 of 5)**

**Instructions:** It is necessary for the City to evaluate, verify, and understand the Proponent's financial capability and stability to undertake and perform the Services contemplated in this Solicitation. To accomplish this task, the Proponent must provide accurate and legible financial disclosures to the City as requested below.

A "Proponent" is an individual, entity or partnership submitting a proposal or Proposal in response to a Solicitation.

1. If the Proponent is an individual, financial disclosures for that individual must be provided.
2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.
3. If the Proponent is a newly formed entity or partnership (formed within the last three years), financial disclosures for that entity or partnership must be provided together with full financial disclosure from the entity's or partnership's owners. Financial Disclosure includes a full response to all questions and requests for documentation listed in this Form.

For example, if the Proponent is a newly formed entity (formed within the last three years) made up of two separate entities (e.g., a majority interest owner and a minority interest owner), then financial disclosure is required from the Proponent entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent (and its owners, if applicable) must submit hard copies of all financial disclosures in response to this Form.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 2 of 5)**

**Part A - General Information:**

Name of the Proponent: \_\_\_\_\_

Name of individual, entity or  
partnership completing this Form: \_\_\_\_\_

Relationship of individual, entity  
or partnership completing this Form  
to the Proponent: \_\_\_\_\_

Contact information of individual,  
entity or partnership completing  
this Form: \_\_\_\_\_

Address \_\_\_\_\_

Phone Number(s) \_\_\_\_\_

Email: \_\_\_\_\_

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 3 of 5)**

**Part B: Financial Information:**

1. The Proponent, and its owners, if applicable, should demonstrate its financial capability and stability by selecting and providing documentation from one of the following three groups of requests (see below). Please circle which group, (a), (b), or (c), is selected and provide the supporting documentation with the proposal/Proposal.
  - (a) Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant ("CPA"), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Statement of Cash Flows.
  - (b) Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant ("CPA"), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Satisfactory proof of Proponent's ability to obtain a Performance Bond for the amount described in Appendix B, if applicable.
  - (c) Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:
    - (i) Income Statement;
    - (ii) Balance Sheet;
    - (iii) Satisfactory proof of Proponent's ability to obtain a Performance Bond for the amount described in Appendix B, if applicable;
    - (iv) Two (2) banks or other institutional lenders' references; and
    - (v) Dunn and Bradstreet report for the last two (2) years.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 4 of 5)**

2. Fill in the blanks below to provide a summary of all of the Proponent's assets and liabilities for the three (3) most recent years (calculated from the date of the end of the fiscal year).

ALL FIGURES BELOW MUST BE REPRESENTED IN U.S. CURRENCY (\$).

Standard currency of Proponent's Financial Statements: \_\_\_\_\_

The exchange rate used: \_\_\_\_\_ = US \$ \_\_\_\_\_

Most recent three (3) years

	<u>Year: 2012</u> (Thousands)	<u>Year: 2013</u> (Thousands)	<u>Year: 2014</u> (Thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

3. Do you plan to use or require an open line of credit for the project? Yes or No.

If yes, the Proponent must provide the source of the line of credit on bank letterhead for the bank providing the line of credit. The bank contact information must include: contact name, title, address, telephone, fax and e-mail address.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 5 of 5)**

**Declaration**

Under penalty of perjury, I declare that I have examined this Affidavit Disclosure form and all attachments to it, if applicable, and, to the best of my knowledge and belief, and all statements contained in it and all attachments, if applicable, are true, correct and complete.

Whether you are an individual executing this form or you are an authorized representative of an entity executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

*Sign here if you are an individual:*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

---

*Sign here if you are an authorized representative of a responding entity:*

Printed Name of Entity: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (entity name) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

**Required Submittal (FORM 4.1)**

**Certification of Insurance Ability Instructions:**

Proponents **MUST** submit a **completed copy of this form executed by their insurance company**. Failure to submit completed form will result in the Proponent being deemed non-responsive.

I, \_\_\_\_\_ [*insert an individual's name*], on behalf of \_\_\_\_\_ [*insert insurance company full name*], a \_\_\_\_\_ [*insert type of entity LLC, LLP, corporation, etc.*] ("**Insurer**"), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia ("**City**") on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [*insert date*]:

- (a) Insurer is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;
- (b) Insurer has reviewed the Agreement attached to the solicitation for Project Number FC-\_\_\_\_: \_\_\_\_\_ ("**Project**") and its corresponding **Appendix B for Insurance and Bonding Requirements**;
- (c) Insurer certifies that if, as of the date written above, \_\_\_\_\_ ("**Proponent**") was selected as the successful Proponent for the Project, Insurer would provide insurance to Proponent for this Project in accordance with the terms set forth in the corresponding **Appendix B for Insurance Requirements**; and

**PLEASE NOTE: If this Form 4.1 is executed by an Attorney-in-Fact, then Insurer must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.1. If Proponent is unable to provide City with insurance that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Proponent's security submitted with its offer and/or disqualify Proponent from further consideration for the award of the Agreement.**

By executing this certification, Insurer represents that all of the information provided by Insurer herein is true and correct as of the date set forth above.

**Insurer:** [*insert company name on line provided below*]

Authorized Signatory

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

**Required Submittal (FORM 4.2)**

**Certification of Bonding Ability Instructions:**

Proponents **MUST** submit a **completed copy of this form executed by their surety**. Failure to submit completed form will result in the Proponent being deemed non-responsive.

I, \_\_\_\_\_ [*insert an individual's name*], on behalf of \_\_\_\_\_ [*insert surety company full name*], a \_\_\_\_\_ [*insert type of entity LLC, LLP, corporation, etc.*](**"Surety"**), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia (**"City"**) on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [*insert date*]:

- (a) Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact surety business in the State of Georgia;
- (b) Surety has reviewed the Agreement attached to the solicitation for Project Number FC-\_\_\_\_: \_\_\_\_\_ (**"Project"**) and its corresponding **Appendix B for Insurance and Bonding Requirements**;
- (c) Surety certifies that if, as of the date written above, \_\_\_\_\_ (**"Proponent"**) was selected as the successful Proponent for the Project, Surety would provide bonding to Proponent for this Project in accordance with the corresponding **Appendix B for Insurance and Bonding Requirements**; and
- (d) **Surety only:** The Surety states that Proponent's uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety's statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Proponent or that Proponent will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE: If this Form 4.2 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.2. If Proponent is unable to provide City with bonds that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Proponent's security submitted with its offer and/or disqualify Proponent from further consideration for the award of the Agreement.**

By executing this certification, Surety represents that all of the information provided by Surety herein is true and correct as of the date set forth above.

**Surety:** [*insert company name on line provided below*]

\_\_\_\_\_  
By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)  
My commission expires: \_\_\_\_\_

**Required Submittal (FORM 5)**

**Acknowledgment of Addenda**

Proponents should sign below and return this form with their Proposal(s) to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following **Addenda** for FC-\_\_\_\_; \_\_\_\_\_:

1. \_\_\_\_\_;
2. \_\_\_\_\_;
3. \_\_\_\_\_; and
4. \_\_\_\_\_.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Corporate Proponent:  
[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant  
Secretary (Seal)

Non-Corporate Proponent:  
[Insert Proponent Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public (Seal)  
My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 6)**

**Proponent Contact Directory<sup>1</sup>**

NAME	POSITION/TITLE	MAILING ADDRESS	OFFICE PHONE	CELL PHONE	EMAIL ADDRESS AND FAX NUMBER

<sup>1</sup> The purpose of the Proponent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Proponent. This Proponent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Proponent's team:

1. At least two (2) individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this RFP; and
2. Proponent Service Provider Key Personnel (as appropriate) listed in the Services Agreement included in this RFP at Part 5.

**Required Submittal (FORM 7)**

**Reference List**

Each Proponent must provide a list of at least three (3) references using the below-referenced format. The City is interested in reviewing references that are able to attest to a Proponent's performance ability and credibility in a particular industry or trade.

Reference:                      Name  
    Address  
    City, State, Zip  
    Phone  
    Fax

Project Title: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Direct Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date(s) of Project: \_\_\_\_\_

Description of Services:

Total Amount of Contract Including Change Orders:

Proponent's Role and Responsibilities:

Current Completion Status:

---

*(Use the Same Format to Provide the Additional References)*

**Required Submittal "Unless a Proponent Elects to Submit an Alternative Form of Payment"**  
**(FORM 8)**

**Proposal Bond (Page 1 of 2)**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_

hereinafter called the PRINCIPAL, and \_\_\_\_\_

hereinafter called the SURETY, a corporation chartered and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact Surety business in the State of Georgia, are held and firmly bound unto the City of Atlanta, Georgia (OBLIGEE), in the penal sum of either: [i] \_\_\_\_\_ Dollars and Cents (\$\_\_\_\_\_); or [ii] 5% of PRINCIPAL'S Proposal amount for PROJECT NUMBER FC-\_\_\_\_; \_\_\_\_\_, good and lawful money of the United States of America, to be paid upon demand of the OBLIGEE, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally and firmly by these presents.

WHEREAS the PRINCIPAL has submitted to the OBLIGEE, for PROJECT NUMBER FC-\_\_\_\_; \_\_\_\_\_, a Proposal;

WHEREAS the PRINCIPAL desires to file this Bond in accordance with law, in lieu of a certified Proponent's check otherwise required to accompany this Proposal;

NOW THEREFORE: The conditions of this obligation are such that if the Proposal be accepted, the PRINCIPAL shall within ten (10) calendar days after receipt of written notification from the CITY of the award of the Contract execute a Contract in accordance with the Proposal and upon the terms, conditions and prices set forth therein, in the form and manner required by the City of Atlanta, Georgia, and execute sufficient and satisfactory Performance and Payment Bonds payable to the OBLIGEE, each in the amount of one hundred percent (100%) of the total Contract price in form and with security satisfactory to said OBLIGEE, then this obligation to be void; otherwise, to be and remain in full force and virtue in law; and the SURETY shall upon failure of the PRINCIPAL to comply with any or all of the foregoing requirements within the time specified above immediately pay to the OBLIGEE, upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

In the event suit is brought upon this Bond by the OBLIGEE and judgment is recovered, the SURETY shall pay all costs incurred by the OBLIGEE in such suit, including attorney's fees to be fixed by the Court.

**PLEASE NOTE: If this Form 8 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 8.**

**Required Submittal "Unless a Proponent Elects to Submit an Alternative Form of Payment"**  
**(FORM 8)**

**Proposal Bond (Page 2 of 2)**

This Proposal Bond is for the Penal Sum of:

[i] \_\_\_\_\_ Dollars and Cents  
(\$ \_\_\_\_\_), being in the amount of 5% of the CONTRACT Sum; or  
[ii] 5% of PRINCIPAL'S Proposal amount for **PROJECT NUMBER FC-\_\_\_\_\_**;  
\_\_\_\_\_. The money payable on this Bond shall be paid to the  
OBLIGEE, for the failure of the Proponent to execute a CONTRACT within ten (10) days after  
receipt of the Contract form and at the same time furnish a Payment Bond and Performance  
Bond.

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be  
duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**Corporate Proponent:**  
**[Insert Corporate Name]**

\_\_\_\_\_  
**Signature:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Corporate Secretary/Assistant Secretary**  
**(Seal)**

**Non-Corporate Proponent:**  
**[Insert Proponent Name]**

\_\_\_\_\_  
**Signature:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Notary Public (Seal)**

**My Commission Expires:** \_\_\_\_\_

**SURETY:**

**Signature:** \_\_\_\_\_  
**Attorney-in-Fact:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_

## **Required Submittal (FORM 9)**

### **Required Submittal Checklist**

The following submittals shall be completed and submitted with each Proposal see table below "Required Proposal Submittal Check Sheet." Please verify that these submittals are in the envelope before it is sealed. *Disclaimer:* It is each Proponents sole responsibility to ensure that their proposal to the City is inclusive of all required submittal documents outlined on the below-referenced checklist; as well as within other parts of the solicitation document.

Submit one (1) Original Proposal, signed and dated, and six (6) complete copies of the Original Proposal including all required attachments.

In addition to the hard copy submissions, each Proponent shall submit two (2) digital versions of its Proposal Submission in Adobe Portable Document Format ("PDF") on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal Submission. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

The City assumes no liability for differences in information contained in the Proponent's printed Proposal Submission and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

Item Number	Required Proposal Submittal Check Sheet	Check <input type="checkbox"/>
1	<b>Volume I – Informational Proposal:</b> <input type="checkbox"/> Executive Summary <input type="checkbox"/> Organizational Structure <input type="checkbox"/> Resumes of Key Personnel <input type="checkbox"/> Overall Experience, Qualifications and Performance on Previous Similar Projects <input type="checkbox"/> Management Plan <input type="checkbox"/> Conceptual Submittal (Project Approach) <input type="checkbox"/> Sustainability Elements	
2	<b>Volume II - Office of Contract Compliance (Appendix A Required Submittals Forms 1-5 )</b>	
3	<b>Volume II – All Required Procurement Documents (if any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive).</b>  <u>Required Submittals include but are not limited to:</u> <input type="checkbox"/> Form 1; Illegal Immigration Reform and Enforcement Act <input type="checkbox"/> Form 2; Contractor Disclosure Form <input type="checkbox"/> Form 3; Proponent Financial Disclosure <input type="checkbox"/> Form 4.1; Certification of Insurance Ability <input type="checkbox"/> Form 4.2; Certification of Bonding Ability <input type="checkbox"/> Form 5; Acknowledgement of Addenda <input type="checkbox"/> Form 6; Proponent Contact Directory <input type="checkbox"/> Form 7; Reference List <input type="checkbox"/> Form 8; Proposal Bond <input type="checkbox"/> Form 9; Required Submittal Checklist <input type="checkbox"/> Statement of Qualifications <input type="checkbox"/> Safety Record Form <input type="checkbox"/> Authority to Transact Business in the State of Georgia <input type="checkbox"/> Georgia Utility Contractor's License <input type="checkbox"/> Site Visit Release Form	
3A	<b>Separate Sealed Envelope</b> <input type="checkbox"/> <b>Cost Proposal</b>	
4	<b>Proponent's Official Company Name:</b> <b>Company Physical Address:</b>	
5	<b>President/Vice President/Owner Name:</b> <b>Title:</b> _____ <b>Office Telephone Number:</b> _____ <b>Direct Cell Telephone Number:</b> _____ <b>Email Address:</b> _____	
6	<b>Primary Point-of-Contact Concerning RFP:</b> _____ <b>Title:</b> _____ <b>Office Telephone Number:</b> _____ <b>Direct Cell Telephone Number:</b> _____ <b>Email Address:</b> _____	

**STATEMENT OF PROPONENT'S QUALIFICATIONS**

This Statement is to accompany proposals submitted for the following project: **FC-8744, Annual Contract for Major Mechanical Repairs and Service**. Proponents must meet the minimum qualification criteria set forth under items 5, 7, 8, 9 10, 11 and 12 of this section and must provide the organization chart as set forth under item 6 of this section to be deemed a "Responsible and Responsive Proponent".

1. NAME OF PROPONENT: \_\_\_\_\_

2. BUSINESS ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

3. TELEPHONE NUMBER: \_\_\_\_\_

4. OFFICIAL REPRESENTATIVE AND TITLE: \_\_\_\_\_  
\_\_\_\_\_

5. Using the forms provided in this Section, list previously completed or current projects which are similar in scope and complexity to this project which were completed or assigned to your firm or joint venture, including: Name of project, location of project, owner's name, address and phone number, description of work performed, initial contract amount, final contract amount, start date, scheduled completion date and actual completion date. (If a joint venture, list separately for each joint venture partner.) Limit to 5.

a. Proponent shall have successfully completed at least three (3) contracts involving Mechanical services. Projects shall have occurred within the last 5 years, providing installation, corrective and preventative maintenance, repair and replacement on major process and facility equipment, including but not limited to placing, installing, maintaining, erecting or connecting any mechanical fixtures/equipment, HVAC equipment, process & facility equipment, plumbing, appliances, controls, compressed / combustible / flammable gas piping, motors, air balancing and fixtures, steelwork, concrete and masonry construction and repair, demolition, underground construction or any part thereof.

6. Provide the following information for the organization proposed for this project:

a. Organizational chart.

b. Indicate the participation by the various members in the organization, as shown on the organizational chart; in the management; and in the division of work (If a joint venture, indicate percent of man hours and percent of project cost to be performed by each joint venture member).

7. Using the forms provided in this Section, provide information for key project personnel: Overall Project Manager, Lead Mechanical Supervisor; Project Coordinator / Project Scheduler; and, Billing Specialist.
- a. Project Manager must have a minimum of five (5) years' experience including but not limited to the managing of placing, installing, maintaining, erecting or connecting any mechanical fixtures / equipment, HVAC equipment, process & facility equipment, plumbing, appliances, controls, compressed / combustible / flammable gas piping, motors, air balancing and fixtures, steelwork, concrete and masonry construction and repair, demolition, underground construction or any part thereof. Minimum completion of at least two (2) contracts of similar contract performance at municipal organizations that provide water and wastewater services. These projects are to also demonstrate and document experience with installation of fiber optic and instrumentation systems. Four (4) references from current similar project clients or for similar projects completed within the last five (5) years are to be provided. Preference will be given to proposed staff that have directly worked on projects used for project references in Part 4, Submittal Forms.
  - b. Lead Mechanical Supervisor must have a minimum of five (5) years' experience including but not limited to placing, installing, maintaining, erecting or connecting any mechanical fixtures/equipment, HVAC equipment, process & facility equipment, plumbing, appliances, controls compressed/combustible/flammable gas piping, motors, air balancing and fixtures, steelwork, concrete and masonry construction and repair, demolition, underground construction or any part thereof. Two (2) references from current similar project clients or projects completed within the last two (2) years are to be provided. Preference will be given to proposed staff that have directly worked on projects used for project references in Part 4, Submittal Forms.
  - c. Project Coordinator / Project Scheduler must have a minimum of three (3) years' experience in coordinating and supporting the Project Manager in the management of including but not limited to placing, installing, maintaining, erecting or connecting any mechanical fixtures/equipment, HVAC equipment, process & facility equipment, plumbing, appliances, controls, compressed / combustible / flammable gas piping, motors, air balancing and fixtures, steelwork, concrete and masonry construction and repair, demolition, underground construction or any part thereof. The Project Coordinator/Project Scheduler must have a minimum of three (3) years' experience in organizing, implementing, and maintaining a scheduling management system. Two (2) references from current similar project clients or projects completed within the last two (2) years are to be provided. Preference will be given to proposed staff that have directly worked on projects used for project references in Part 4, Submittal Forms.
  - d. Billing Specialist must have a minimum of three (3) years' experience in collecting, posting and managing account payments. Two (2) references

from current similar project clients or projects completed within the last two (2) years are to be provided. Preference will be given to proposed staff that have directly worked on projects used for project references in Part 4, Submittal Forms.

8. The Proponent must have an established Safety Program that as a minimum includes those items as listed on the attachment entitled "SAFETY RECORD FORM," Section IV Safety Program Information where applicable to this type of work.
9. The Proponent's Workman's Compensation Ratings (EMR-Experience Modification Rate) must not exceed an average of 1.0 over the last three (3) years (provided for each team member).

Proponent's Workman's Compensation Ratings (EMR-Experience Modification Rate) \_\_\_\_\_

10. The Proponent's Team Members OSHA Incidence Rates must not exceed the most current Industry Standard published by the U.S. Department of Labor (2013) for the last three (3) years for heavy civil construction – water and sewer utilities, NAICS code 23711 (i.e. total recordable case rate must not exceed 3.6; Injuries and Illness with Lost Work Days must not exceed 1.3; and, Injuries and Illness with Job Transfer or Restricted Work Days must not exceed 0.9). The following will be provided by the Proponent for each member of the Team:

- a. Total Recordable Case Rates,
- b. Injuries and Illness with Lost Work Days,
- c. Injuries and Illness with Job Transfer or Restricted Work Days.

11. "If there have been any fatalities during the last five (5) years on any projects performed by the Proponent or on any work performed under the direct supervision of a proposed Project Manager and the Proponent or proposed Project Manager was cited by OSHA for "Willful", in performing the work in which the fatality occurred, the Proponent will be disqualified based on the City's review. The Proponent may also be disqualified in the event that a Recordable Incident occurred due to the same condition that existed when a previous fatality occurred and resulted in an OSHA citation or failure to implement a corrective action plan."

- a. Fatalities during the last five (5) years where Proponent was cited by OSHA for "Willful" or "Serious" Violation \_\_\_\_\_
- b. Fatalities during the last five (5) years where the proposed Project Manager was cited by OSHA for "Willful" or "Serious" Violation. \_\_\_\_\_

12. If there have been any incidents during the last five (5) years on any wastewater or water treatment facility projects performed by the Proponent or on any work performed under the direct supervision of a proposed Project Manager that resulted the wastewater or water treatment facility failing to meet NPDES Discharge Permit requirements due to the actions of the Proponent or Project

Manager or failure of the Proponent or Project Manager to perform work on schedule, the Proponent will be disqualified based on the City's review.

The previous statements and attachments are true, correct, and complete to the best of my knowledge.

Date: \_\_\_\_\_

Proponent's Firm Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_, 2016

Notary Public

**STATEMENT OF BIDDER'S QUALIFICATIONS**

**PROPONENT PROJECT EXPERIENCE FORM**

**NAME:** \_\_\_\_\_

**Project No.** \_\_\_\_\_

Project Name	
Project Location	
Contractor	
Total Contract Amount	
Contractor's Project Manager	
Owner's Representative: Name and Phone Number	
Design Engineer's Representative: Name and Phone Number	
Reason for Cost Increase, if any	
Project Duration	Date Started: Date Completed:
Was Project Completed on Time?	
If not Completed on Time, Why?	
Description of Major Project Components	

Attach supporting resumes in addition to completing all requirements in form.

**STATEMENT OF BIDDER'S QUALIFICATIONS**

**KEY PERSONNEL EXPERIENCE**

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**Project No. \_\_\_\_\_**

Project Name	
Project Location	
Contractor	
Total Contract Amount	
Contractor's Project Manager	
Owner's Representative: Name and Phone Number	
Design Engineer's Representative: Name and Phone Number	
Reason for Cost Increase, if any	
Project Duration	Date Started: Date Completed:
Was Project Completed on Time?	
If not Completed on Time, Why?	
Description of Major Project Components	

**SAFETY RECORD FORM**

**I. General Information**

Name of Firm:	
Business Address:	
Telephone:	Fax:
Prepared by/Title:	Date prepared:

**II. Experience Modification Rates**

A. List your firm's Workers Compensation Experience Modification Rates (EMR) for the last three years.

Year	Experience Modification Rate (EMR)

**III. OSHA Incidence Rates**

A. List your firm's Occupational Safety Health Administration (OSHA) total recordable incidence rates for the last three years.

Year	Total Recordable Incidents	Total Hours Worked	OSHA Incidence Rate*

\* Use your OSHA Form No. 200 and the formula:

$$(\text{Total Incidents} \times 200,000 \text{ hours}) \div (\text{Number of hours worked}) = \text{Incidence Rate}$$

SAFETY RECORD FORM

**III. OSHA Incidence Rates (cont'd)**

B. Provide your incidence rates over the last three years for the following categories:

Category	Incidence Rate by Year*		
	Year	Year	Year
Injuries and Illness with Lost Work Days			
Injuries and Illness with Job Transfer or Restricted Work Days			

\* Use your OSHA Form No. 200 and the formula:

$$(\text{Total Incidents} \times 200,000 \text{ hours}) \div (\text{Number of hours worked}) = \text{Incidence Rate}$$

C. Provide your incidences of fatality over the last five years:

Category	Fatalities by Year				
	Year	Year	Year	Year	Year
Number of Fatalities					

D. Does your firm have any upheld OSHA citations in the past five years?

Yes  No  (If yes, attach explanation)

**IV. Safety Program Information**

A. Do you have a written safety program?

Yes  No  (If yes, attach outline)

B. Which of the following does your safety program contain:

1. Does your company require health and safety training of its subcontractors?

Yes  No

2. Is documentation of health and safety training required?

Yes  No

3. Do you have a Hazard Communication Program (29 CFR 1910.1200, CCR Title 8 Section 5194)?

Yes  No

4. Do you have a Confined Space Entry and Rescue Program (29 CFR 1910.146, CCR Title 8 Section 5156-5159)?

SAFETY RECORD FORM

Yes  No  (If yes, attach explanation)

5. Do you have a "Hot Work" permit program (29 CFR 1910.146, CCR Title 8 5156-5159)?

Yes  No  (If yes, attach explanation)

6. Do you have a "Lock-Out/Tag-Out" program (29 CFR 1910.417)?

Yes  No  (If yes, attach explanation)

C. Do you have an Equipment Maintenance Program for the following:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Miscellaneous construction tools and equipment? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Ladders?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Scaffolds?                                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Heavy Equipment?                                | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5. Vehicles?                                       | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

D. Do you have a new employee safety orientation program?

Yes  No

1. If yes, does it include instruction in the following:

- |                                   |                              |                             |
|-----------------------------------|------------------------------|-----------------------------|
| (a) Company Safety Policy         | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (b) Company Safety Rules          | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (c) Safety Meeting Attendance     | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (d) Company Safety Record         | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (e) Hazard Recognition            | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (f) Hazard Reporting              | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (g) Injury Reporting              | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (h) Non-Injury Accident Reporting | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (i) Personal Protective Equipment | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (j) Respiratory Protection        | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (k) Fire Protection               | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (l) Housekeeping                  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (m) Toxic Substance               | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (n) Electrical Safety             | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (o) Fall Protection               | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (p) First-Aid/CPR                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (q) Driving Safety                | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (r) Hearing Conservation          | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (s) Lock-Out/Tag-Out              | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (t) Bloodborne Pathogens          | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (u) Asbestos                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (v) Confined Spaces               | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (w) Hazard Communication          | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

**IV. Safety Program Information (cont'd)**

E. Do you conduct safety meetings for your employees? Yes  No

1. If yes, how often:

Daily  Weekly  Bi-weekly  Monthly  As Needed

F. Do you conduct health and safety audits of work in progress?

Yes  No

1. If yes, who conducts the audits?

\_\_\_\_\_

2. How often are the audits conducted?

\_\_\_\_\_

G. Do you notify all employees of accidents and precautions related to accidents and near misses?

Yes  No

1. If yes, how is this notification accomplished?

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| (a) Safety meetings   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (b) Post notification in office                               | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (c) Post notification at the site where the incident occurred | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (d) Other _____   |                              |                             |

H. Is safety a criteria in evaluating the performance of:

- |                |                              |                             |
|----------------|------------------------------|-----------------------------|
| 1. Employees   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Supervisors | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Management  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I. Does your firm hold "tailgate" safety meetings? Yes  No

1. If yes, how often:

Daily  Weekly  Bi-weekly  Monthly  As Needed

J. Does your company have a drug and alcohol testing policy?

Yes  No

K. Does your company require that subcontractors participate in a drug surveillance/testing program?

Yes  No

L. Does your company have a method of disseminating safety information?

Yes  No

**Site Tour Release Form**  
**FC-8744 ANNUAL CONTRACT FOR MAJOR**  
**MECHANICAL REPAIRS AND SERVICE (Solicitation)**

**Permission; Release:** As part of the above referenced Solicitation, the City of Atlanta and its agents, employees and consultants ("City") grants the undersigned, on behalf of itself and any of its agents, affiliates, employees and/or authorized representatives listed below (collectively, "Proponent") access to the facilities listed below ("Facility"), for the purpose of assessing the work Site, as may be reasonably necessary for the purposes of developing a response to the Solicitation ("Facilities"); such access may include taking samples at the Facility. The Proponent's access is expressly conditioned upon Proponent's execution and agreement to this "Site Tour Release Form", as follows:

Proponent, on behalf of itself and any of its agents, affiliates, employees and/or authorized representatives listed below acknowledges that the Facilities are owned and operated by the City as a Wastewater Reclamation/Treatment Center/Plant, which has inherent risks, dangers and hazardous conditions located on the premises as part of the day-to-day operations of the WRC/WTP. Proponent further acknowledges and agrees that any of Proponent's actions or efforts related to taking any sampling of substances present inherent dangers and risks to Proponent, for which the Proponent is solely responsible and liable, including without limitation, providing any and all personnel, equipment safety measures and exercising the appropriate degree of safety and control as may be necessary and appropriate for such efforts. The City makes no representations or warranties of any kind as to the degree of safety, fitness or suitability of the Facilities for the purpose of entering the Facilities for any sampling, testing or inspection of the Facilities. Proponent agrees to accept and assume all risks arising directly or indirectly out of the any site visit, entry, inspection, sampling or testing by Proponent to or of the Facilities. Proponent agrees that the City shall have no duty of care to keep the Facilities safe for entry or use. Proponent agrees that the City does not grant its permission, assume responsibility or incur liability for any injury, death, loss or damage to any person or property arising out of the activities of Proponent on the Facilities, and Proponent hereby releases the City and its employees, consultants and other agents from any and all actions, causes of action, suits, claims, liabilities, losses, damages, judgments and executions of any kind arising after the date hereof that Proponent, or its employees, representatives, affiliates and/or agents may have by reason of, arising out of, related to, or resulting from any visit, entry, inspection, study, test or other action by Proponent.

**Indemnity and Hold Harmless:** Notwithstanding any general liability or other insurance that may be maintained by Proponent, Proponent shall defend, indemnify and hold the City harmless (using counsel reasonably satisfactory to the City) from any and all actions, causes of action, suits, claims, liens, demands, liabilities, losses, costs, expenses (including, without limitation, reasonable attorneys' fees) and damages of any kind or nature that the City sustains or incurs by reason of or in connection with any visit, entry, inspection, study, test or other actions by Proponent; provided, however, that the indemnity obligations of Proponent shall not apply to any liability of damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence or willful misconduct of the City and its agents or employees.

**Confidential Information:** Proponent recognizes that their employee and/or agent may be exposed to Confidential Information and that the City desires to prevent unauthorized disclosure of such information. Except as required by law or by a court of competent jurisdiction, each party agrees that it will not disclose any Confidential Information of the other party and further agrees to take appropriate action to prevent such disclosure by its employees or agents.

FACILITY	ADDRESS
<b>WATER RECLAMATION CENTERS (WRC's)</b>	
RM Clayton WRC	2440 Bolton Rd. NW Atlanta, GA 30318
<b>WATER TREATMENT PLANTS (WTP's)</b>	
Hemphill Water Treatment Plant	650 Bishop St. NW Atlanta, GA 30318
Chatahoochie Water Treatment Plant	2532 Bolton Rd. NW Atlanta, GA 30318
<b>ACTIVE CSO FACILITIES / CSO ASSETS</b>	
West Area CSO Treatment Facility	2440 Bolton Rd. NW Atlanta, GA 30318
<b>ACTIVE PUMP STATIONS</b>	
Nancy Creek	2440 Bolton Rd. NW Atlanta, GA 30318

Acknowledged and agreed this \_\_\_ day of \_\_\_\_\_, 2016.

Proponent / Bidder and Proponent / Bidder's Authorized Representatives

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

## PART 5

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# DRAFT CONSTRUCTION SERVICES AGREEMENT

## ANNUAL CONSTRUCTION SERVICES AGREEMENT

THIS CONSTRUCTION SERVICES AGREEMENT ("Agreement") is entered into effective this \_\_\_\_\_ day of \_\_\_\_\_, 2016, (the "Effective Date") by and between THE CITY OF ATLANTA ("Owner" or the "City"), and \_\_\_\_\_ ("Contractor").

The City and Contractor agree as follows:

### 1. DEFINITIONS

The following terms have the meaning assigned:

"**Agreement Documents**" means this Agreement and its Exhibits, Appendices, Work Orders, Change Orders, Documentation, Drawings, and Specifications, including

Construction Services Agreement  
Supplemental Conditions  
Exhibit A- General Scope of Services  
Exhibit A.1- Compensation and Fee Schedule  
Exhibit A.2- Work Orders  
Exhibit B- Legislation  
Exhibit C- Supplement Conditions and Technical Specifications  
Exhibit D- Additional Contract Documents  
Appendix A- Office of Contract Compliance  
Appendix B- Insurance and Bonding Requirements

"**Agreement Term**" has the meaning set forth in Article 2, unless otherwise expressly amended or changed, pursuant to the City's authorized approval in conformance with the City of Atlanta Code of Ordinances and applicable law.

"**Changes**" has the meaning set forth in Article 8.

"**Change Order**" has the meaning set forth in Article 8.

"**City Representative**" has the meaning set forth in Article 6.

"**Claim**" means any demand, contention, or assertion seeking additional time or money under the terms of this Agreement. Claims by the Contractor must be made in writing and contain all of the following or such Claims are released: (a) a narrative statement describing the amount and bases of the Claim; (b) the precise number of days claimed as a result of any delay; and (c) a detailed calculation of the precise amount of additional compensation claimed with all required supporting Documentation.

"**Documentation**" has the meaning set forth in Article 4.

"**Drawings**" include, without limitation: all renderings, technical and design drawings, specifications, plans, layouts, diagrams, illustrations, descriptions, calculations, schedules, graphs, performance charts, shop drawings; as-built drawings; all graphic or pictorial material needed to show locations, dimensions, elevations, sections, and details; all documents necessary to fix and describe the size, quality and composition of the Project (or parts thereof); supplier operating and maintenance manuals, recommended spare parts lists, documents required to support permitting and licensing, and any other data pertinent to operation of the Project.

**“Emergency Work”** has the meaning set forth in Article 2.

**“Final Completion”** means that point in time where the City has confirmed to the Contractor in writing that the Services required by a Work Order have achieved Substantial Completion, Contractor has completed all punch-list items associated with a Work Order, and Contractor has provided all Documentation required by the Agreement Documents and Work Orders for Final Completion.

**“Final Payment”** means the final amount of compensation due under a Work Order or this Agreement (as applicable) and shall not become due until Contractor satisfies all of the requirements of Article 9.

**“Minimum Quantity”** means one dollar (\$1.00) in United States Currency, which is the minimum amount of Services that shall be ordered by the City pursuant to this Agreement.

**“Project”** means or refers to the Project(s) specifically identified in Work Orders issued pursuant to this Agreement.

**“Services”** means the specific tasks and activities to be performed by Contractor as identified in a Work Order issued pursuant to this Agreement, as well as all ancillary and incidental tasks and activities not expressly identified in a Work Order but which are reasonably necessary to be performed in order to complete the tasks and activities expressly identified in a Work Order.

**“Standard”** has the meaning set forth in Article 6.

**“Substantial Completion”** as applicable to a Work Order, means that point in time in which the Services that are the subject of a Work Order are capable of being used for their intended purpose and comply with all of the requirements of Article 9, the Specifications, and the other Agreement Documents.

**“Total Sum”** means the total maximum amount of compensation for which all Work Orders may potentially be issued pursuant to this Agreement. Contractor’s entitlement to payment under this Agreement shall not exceed the Total Sum.

**“Work”** means all the Services specified, indicated, shown, or contemplated by the Agreement Documents and applicable Work Orders, as well as the furnishing by Contractor of all materials, equipment, labor, methods, processes, construction, manufacturing, tools, plants, design, supplies, power, water, transportation and any other things necessary or incidental to complete such Services in accordance with the Agreement Documents and applicable Work Orders that will ensure a functional and complete Project(s).

**“Work Order”** means an order executed by the City, substantially in the form and substance provided in Exhibit A to this Agreement that specifies the Services to be provided by Contractor to the City, the agreed amount of payment for such Services, and the time limitations for completing the Services.

**“Work Order Commencement Date”** means the date identified in a notice to proceed and/or a Work Order issued by the City, which instructs the Contractor to start the performance of Services required by a Work Order. The times for Substantial Completion and Final Completion will be measured from the Work Order Commencement Date.

**“Work Product”** has the meaning set forth in Article 6.

## 2. SERVICES.

2.1 In General. The City desires to obtain from Contractor the Services described generally on **Exhibit A** attached and as further described on Work Orders (individually, a "Work Order" and, collectively, the "Work Orders") that may be executed from time to time between the Parties, pursuant to this Agreement.

The Services to be provided by Contractor are those ordered by the City that are reflected in a Work Order executed by the City. The City agrees that it shall order the Minimum Quantity of Work from the Contractor pursuant to this Agreement. Contractor agrees to provide to City the Services per the Agreement Documents and each Work Order issued by the City. Each Work Order will include at least the following:

a reference to this Agreement;  
the Work Order Commencement Date;  
the required dates of Substantial and/or Final Completion of the Services, as applicable;  
the Services to be provided by the Contractor;  
required deliverables and submittals;  
the amounts payable and payment schedule for the Services; and  
any additional provisions applicable to the Services.

Except as provided for Emergency Work, no Work Order will become effective until it has been executed by an authorized representative of the City. A Work Order issued pursuant to this Agreement will be substantially in the form of **Exhibit A.2** hereto. All approved Work Orders shall be incorporated by reference into this Agreement.

2.1.1 Emergency Work. In some cases, the City may require emergency Services to be performed by the Contractor, which pose an imminent threat to the public health, safety, general welfare or the City's water or wastewater system ("Emergency Work"). In such cases, the City's Authorized Representative shall notify the Contractor by email or other written communication the type and scope of work needed under the circumstances. Once notified, Contractor shall immediately mobilize and begin Services, as is necessary to remediate the emergency conditions. Payment for such Services shall be in accordance with Option 1, pursuant to Section 4.1.1.

2.1.2 Authorization. If applicable, this Agreement is authorized by legislation adopted by the City, which is attached as **Exhibit B**.

2.2. The Total Sum of payments by City under this Agreement shall not exceed \$ \_\_\_\_\_ during the first year in which this Agreement is effective. For each subsequent year that this Agreement is effective, City shall provide written notice to Contractor of the amount of funding allocated to this Agreement for such calendar year (each annual maximum amount, including the funding for the first year, shall be the "Annual Maximum Payment Amount"). In addition, each Work Order shall specify a maximum payment amount (the "Work Order Maximum Payment Amount") applicable to the Services to be performed under such Work Order.

2.3 Work Orders under this Agreement may be issued by City without further legislative approval under Code section 2-1111, if the legislation authorizing this Agreement provides for such issuance. In such circumstances, the Work Order may be executed by the City's Chief Procurement Officer, head of the affected using agency or other appropriate designee on behalf of City. City, at its sole discretion, may unilaterally issue Work Orders for Services for which charges are established in this Agreement. Contractor shall promptly proceed with the Services set forth in any such Work Order. If City solicits a

proposal from Contractor for a Work Order, Contractor shall submit its proposal with a Work Order containing all the necessary terms and executed by Contractor. Work Orders may be issued or executed during the term of this Agreement that contain a service performance period that extends beyond the term; provided, however, that no Work Order may be issued or executed under this Agreement subsequent to the expiration or termination of the term.

2.4 City makes no representations or warranties about the quantity of services that will be requested or charges that will be paid under this Agreement. Any quantity of Services or amount of charges set forth in this Agreement are estimates only.

2.5 Initial Term. The initial term of this Agreement will be One (1) years. This Agreement shall commence on the Effective Date and end on [\_\_\_\_]. The initial term of the Agreement and any renewal term(s) are collectively referred to as the "Term".

2.6 Renewal Terms. City shall have the right in its sole discretion to renew this Agreement for Two (2) additional one-year terms. If City desires to exercise an option to renew, it will submit legislation authorizing such renewal for consideration by City's Council and Mayor prior to the expiration of the prior term. The legislation will establish that the date of such renewal will be the day immediately following the expiration day of the prior term.

If such legislation is enacted, City will notify service provider of such renewal, at which time service provider shall be bound to provide Services during such renewal term, without the need for the parties to execute any further documents evidencing such renewal, it being acknowledged by service provider that its initial execution of this Agreement is deemed its agreement to continue to provide Services during any renewal term.

### 3. COMPENSATION

3.1 Compensation for Services will be based upon agreed unit prices as set forth in the fee schedule attached as **Exhibit A.1**. No payment to Contractor shall exceed Annual Maximum Payment Amount; Work Order Maximum Payment Amount; the Total Sum; or the hourly rates, materials, reimbursable expenses and other payment terms identified in **Exhibit A.1**. All costs of items associated with the Work and incidentals necessary for the proper and timely completion of the Work shall be considered as included in the unit prices attached as **Exhibit A.1**. Payment for all Work in accordance with the unit prices identified in **Exhibit A.1** shall be full compensation for all labor, materials, equipment, methods, processes, construction manufacturing, tools, plants, designs, supplies, power, water transportation and any other things necessary or incidental to furnish, install, construct, and test the Work covered under the applicable unit price. The unit prices set forth in **Exhibit A.1** are inclusive of all taxes, levies, duties and assessments of every nature in connection with the Services ("Taxes"). Services for which there is no price schedule set forth in **Exhibit A.1** shall be considered incidental to the Work and no compensation shall be allowed.

3.2 Contractor acknowledges and agrees that if the quantities originally contemplated under the Agreement Documents are materially changed so that application of such unit prices to quantities of the Work performed will cause substantial inequity to the City, the applicable unit prices shall be equitably adjusted pursuant to Article 8. For purposes of this Article 3.2, a change in quantities may be considered material if such change is greater than or equal to forty percent (40%) more than the quantities set forth in the Agreement Documents.

3.3 No money shall be paid by the City upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation who is in arrears to the City for taxes, or any other debt or claim, and the City

shall be entitled to counterclaim and/or offset any such debt, claim, demand or account in the amount of taxes so in arrears or other debts or claims of the City, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due or after any such debt or claim is asserted by the City, shall affect the right of the City to so offset the said taxes, debts, or other obligations against the same. Contractor agrees that the City shall be allowed to setoff and recoup any claim or demand that it may have against Contractor (or any of its constituent members if Contractor is a joint venture) whether such claim or demand is liquidated or unliquidated. Contractor further agrees that in the event it assigns or sells any amounts due or to become due under this Agreement, notice to the City of such assignment or sale shall not affect the City's rights of setoff or recoupment against Contractor for claims subsequently arising from this Agreement or any other contract with the City. Any assignee or purchaser of any amounts due Contractor under this Agreement shall be bound to these provisions and shall assume the risk of subsequently arising claims of setoff or recoupment.

#### 4. TERMS OF PAYMENT

4.1 Payment to the Contractor will be made according to one of the following methods identified in this Article 4. Work Orders issued pursuant to this Agreement will identify the method of payment selected by the City. Selection of the applicable payment options identified in Articles 4.1.1 and 4.1.2 is in the City's sole discretion. In the event that a Work Order does not expressly state the procedure for payment selected by the City, then Contractor will be entitled to payment in accordance with Article 4.1.1. Contractor shall prepare and submit to City invoices for payment for all Services in accordance with the Work Order, which shall include such detail and format as the City may reasonably require.

##### Payment Methods

4.1.1 Option 1, Payment Upon Final Completion: Subject to the City's right to offset payment and its rights to withhold payment set forth in Article 4.4, Contractor shall be entitled to full payment for a Work Order sixty (60) days after achieving Final Completion of the Services required by a Work Order based upon a lump sum, based upon time and materials and calculated from the labor and materials categories set forth in Exhibit A. Contractor agrees to execute such payment application forms and release of claim forms as the City may require as a condition precedent to the City's obligation to make any payment to Contractor.

4.1.2 Option 2, Progress Payments: If the City elects to pay Contractor in accord with this Article 4.1.2, then upon issuance of a Work Order, Contractor shall submit to the City monthly invoices for Services performed. Each invoice shall be accompanied by a payment application identifying the applicable Work Order, such time sheets, daily reports, receipted invoices, invoices with check vouchers attached, Contractor's interim and final releases of lien and bond rights (as applicable), Contractor's sub-tier contractor interim and final releases of lien and bond rights (as applicable), Contractor's verification of quantities delivered pursuant to Work Order(s), all Drawings required by a Work Order, all documents, work product, and information required by the Specifications, and such other records as the City may reasonably request for the purpose of verifying the accuracy of the invoice (collectively "Documentation"). Subject to the City's right to offset payment and its rights to withhold payment set forth in Article 4.4, payment to Contractor will be made less applicable retention within thirty (30) days of receipt of all supporting Documentation required by the Agreement Documents. Contractor agrees to execute such payment application forms and release of claim forms as the City may require as a condition precedent to the City's obligation to make any payment.

4.2 This Article 4 completely supersedes the Georgia Prompt Pay Act as it relates to Owner payments and any modifications or successors to the Georgia Prompt Pay Act to the fullest extent allowed by law. Contractor acknowledges and agrees that payment shall be in accordance with the provisions of this

Agreement and expressly waives its right to assert entitlement under O.C.G.A. § 13-1-11, *et. seq.* to the full extent permitted by law. Should the City fail to issue payment for undisputed amounts within ninety (90) days of approval, annual interest on the payment amount may accrue at the Prime Rate, plus one percent (1%). The Prime Rate shall be based on that published in the Wall Street Journal on the first business day of January or June, whichever has most recently passed, of the current year.

4.3 The City may decline to approve payment and may withhold any payment, in whole or in part because of: (a) defective work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of the contractor to promptly make payments to sub-tier contractors; (d) reasonable evidence that the Work cannot be completed for the Total Sum; (e) reasonable evidence that the Services will not be completed within the time required by a Work Order; (f) failure to carry out the Services in accordance with the requirements of the Agreement documents; (g) failure to comply with the insurance and bonding requirements of the Agreement Documents; (h) Contractor's insolvency or reasonable evidence that contractor fails to pay its debts as they come due; (i) liquidated damages due in accordance with article 9; or (j) a material failure of the contractor to comply with any of the requirements of the agreement documents. No full or partial payment of any invoice or any use of Services constitutes acceptance of any Services.

4.4 Any Disputes concerning payment shall be resolved in accordance with Article 16.

## **5. CONTRACTOR'S ACCOUNTING RECORDS AND THE CITY'S RIGHT OF AUDIT**

Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement. The City shall be afforded reasonable access to Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, memoranda, records of delivered quantities, daily reports, job cost reports, and such other data relating to this Agreement during normal business hours at the location where such documents are stored by Contractor. The Contractor shall preserve all such related documentation for a period of two (2) years after the expiration of the Agreement Term. The City shall have the right to audit the books and records related to this Agreement at any time. Contractor shall provide access to its books and records associated with this Agreement within 72 hours of the City's provision of written notice to Contractor.

## **6. OBLIGATIONS OF THE CONTRACTOR**

6.1 Contractor will perform all Services in a timely and professional manner, consistent with the Standard. Contractor shall not be deemed to be an agent of the City for any purpose but shall in all events be an independent contractor exercising control over its Services and the manner in which they are performed.

6.2 Contractor will not perform any Services until the City directs Contractor in writing to proceed. Unless otherwise specified in a Work Order, the execution of a Work Order by the City shall constitute notice and authorization to Contractor to proceed in strict accordance with the Agreement Documents.

6.3 Contractor will perform Services under this Agreement with the highest degree of skill and diligence normally practiced by contractors performing the same or similar services as are being performed by Contractor under this Agreement and under any Work Order in accordance with all applicable federal, state, local laws, ordinances, rules, regulations, and lawful orders ("Standard"). Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and shall coordinate all portions of the Work under the Agreement Documents.

6.4 Contractor shall enforce strict discipline, professionalism, and good order among Contractor's employees and sub-tier contractors. The City may, after provision of written notice to Contractor, require

Contractor to remove from the Work any employee the City deems incompetent, unprofessional, or otherwise objectionable, including any employee of Contractor's sub-tier contractors.

6.5 Unless otherwise provided in the Agreement Documents, Contractor shall secure and will provide all permits, licenses, and other applicable legal documents required for Contractor's performance of the Work required by the Agreement Documents. In no event will Contractor's failure to timely secure permits, licenses, and/or other applicable legal documents serve as a basis for a Claim under this Agreement.

6.6 Key Personnel and Key Subcontractors. The following persons are identified by the Contractor as its key personnel that will provide the Work and Services required by the Agreement Documents:

6.6.1 Key Personnel:

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

6.6.2 Key Subcontractors:

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

6.6.3 Contractor shall not transfer, reassign or replace Key Personnel and/or Key Subcontractors identified in Articles 6.6.1 and 6.6.2, except as the result of retirement, voluntary resignation, involuntary termination for cause in Contractor's sole discretion, illness, disability, or death, during the term of this Agreement without the prior written approval from the City.

6.7 Suspension of the Work. The City may, by written notice to Contractor, suspend at any time the performance of any or all of the Work to be performed under this Agreement. Contractor shall be entitled to request an extension of time pursuant to Article 8 in the event the City issues a suspension notice per this Article 6.7. Unless the suspension notice directs otherwise, upon receipt of a suspension notice Contractor must:

6.7.1 immediately discontinue suspended Work on the date and to the extent specified in the notice;

6.7.2 place no further orders or subcontracts for materials, services or facilities with respect to suspended Work, other than to the extent required in the notice; and

6.7.3 take any other reasonable steps to minimize costs associated with the suspension.

6.8 The City shall designate to the Contractor in writing a representative(s) (the "City Representative") who shall serve as primary interface and the single-point of communication for the provision of Services; have day-to-day interaction with Contractor to address issues relating to this Agreement; and to the extent provided under applicable laws and the City's Code of Ordinances, have the authority to execute any additional documents or Change Orders on behalf of City. Any Work,

document, or item to be submitted or prepared by Contractor hereunder shall be subject to the review of the City Representative. The City Representative may disapprove, if in the City Representative's sole opinion the Service, Documentation, Drawing or item is not in accordance with the requirements of the Agreement Documents or sound professional principles, or is impractical, uneconomical or unsuited for the purposes for which the Service, document or item is intended. If any of the said items or any portion thereof are so disapproved, Contractor shall revise and/or correct the Work so that it meets the approval of the City Representative at no additional cost to the City. The "City Representative" may also be referred to as the "City Engineer."

6.9 Contractor shall diligently perform the Services required by a Work Order within the time required by the Work Order notwithstanding any disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as City may otherwise direct pursuant to this Agreement. Contractor's failure or refusal to work through disputes in accordance with this Article 6.9 shall be deemed a material default under this Agreement, which will entitle the City to immediately rely upon Contractor's sureties to cure said default.

6.10 Except as otherwise expressly provided in this Agreement, all Drawings, Documentation, reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored by Contractor or any of its sub-tier contractors exclusively for the City under this Agreement, and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") shall be and remain the sole and exclusive property of the City. Any of Contractor's or its sub-tier contractors' works of authorship comprised within the Work Product (whether created alone or in concert with City or a third party) shall be deemed to be "works made for hire" and made in the course of Services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other applicable law, such Work Product shall belong exclusively to City. Contractor and its sub-tier contractors grant the City a non-exclusive, irrevocable, global, perpetual, transferable, fully paid up, royalty free license to all Work Product not exclusively developed for City under this Agreement.

6.10.1 If any of the Work Product is determined not to be a work made for hire, Contractor hereby assigns to the City, worldwide and in perpetuity, all rights, including proprietary rights, copyrights, and related rights, and all extensions and renewals of those rights, in the Work Product. If Contractor has any rights to the Work Product that cannot be assigned to City, Contractor unconditionally and irrevocably waives the enforcement of such rights and irrevocably grants to City during the term of such rights an exclusive, irrevocable, perpetual, transferable, global, fully paid and royalty-free license, with rights to sublicense through multiple levels of sub-licensees, to reproduce, make, have made, create derivative works of, distribute, publicly perform and publicly display by all means, now known or later developed, such rights.

6.10.2 The City shall have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection.

6.10.3 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Contractor may not originally vest in City by operation of applicable law, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the City all rights, title and interest in the Work Product.

6.10.4 Without any additional cost to the City, Contractor and its personnel shall promptly give City all reasonable assistance and execute all documents the City may reasonably request to enable the City to perfect, preserve, enforce, register and record its rights in all Work Product. Contractor

irrevocably designates City as Contractor's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Article 6.10 and to take all actions necessary, in Contractor's name, with the same force and effect as if performed by Contractor.

6.11 Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to: (a) all employees on the Work and all other persons who may be affected thereby; (b) all the Work and materials to be incorporated therein, whether in storage or not, under the care, custody, or control of Contractor or any of Contractor's sub-tier contractors; (c) other property at the site where the Work is being performed or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and (d) the Work of the City or other separate contractors.

6.11.1 Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

6.11.2 Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

6.11.3 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

6.11.4 Contractor shall promptly remedy all damage or loss to any property caused in whole or in part by Contractor, any subcontractor, any sub-tier contractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, except damage or loss attributable solely to the acts or omissions of the City and not attributable to the fault or negligence of Contractor. The foregoing obligations of Contractor are in addition to Contractor's obligations under Article 7 and Exhibit A or other provisions of the Agreement Documents.

6.11.5 Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

6.11.6 In any emergency affecting the safety of persons or property, Contractor shall act, at Contractor's discretion, to prevent threatened damage, injury or loss.

6.11.7 Contractor acknowledges that it is fully aware of appropriate and safe procedures regarding blasting, including the contents and requirements of Official Code of Georgia Annotated § 25-9-1 through § 25-9-12, Blasting or Excavating Near Underground Gas Pipes and Facilities, any amendments thereto and rules and regulations issued pursuant thereto, and Contractor shall fully comply therewith. Contractor agrees and acknowledges that any failure on its part to adhere to appropriate procedures and said laws, rules and regulations shall not only be a violation of law but shall also be a breach of Agreement.

6.11.8 Contractor acknowledges that it is fully aware of appropriate and safe procedures regarding high voltage lines, including the contents and requirements of Official Code of Georgia Annotated § 46-3-30 through § 46-3-39, Safeguards Against Contact with High Voltage Lines, any amendments thereto and rules and regulations issued pursuant thereto, and Contractor shall fully comply therewith. Contractor agrees that any failure on its part to adhere to appropriate procedures and said laws, rules and regulations shall not only be a violation of the law but shall also be a breach of Agreement.

6.11.9 Contractor acknowledges and agrees that it is the entity responsible under the law and that it is the entity employing or directing others to perform labor within the meaning of Official Code of Georgia Annotated § 34-1-1, Labor and Industrial Relations. It acknowledges and agrees likewise that it will comply with said law.

6.11.10 Contractor shall protect all Work, including but not limited to, excavations and trenches, from rain water, surface water, and backup of drains and sewers. Contractor shall furnish all labor, pumps, shoring, enclosures, and equipment necessary to protect and keep the Work free of water.

6.11.11 The provisions, terms and conditions of this Article 6 are in no way intended to limit the general requirements or the applicability of laws relating to Work conditions, safety or accident prevention and no specific provision or combination of specific provisions in any provision of Article 6 or in any other parts of the Agreement Documents shall be deemed to limit the obligations or responsibility of Contractor contained in general provisions with respect thereto or in laws, statutes, acts, rules or regulations which are applicable to Contractor but which are not specifically referred to in any part of the Agreement Documents.

## 7. INSURANCE AND BONDING

The Contractor shall procure and maintain, at its own cost, during the term of this Agreement the Insurance and Bonds Required by **Appendix B**.

## 8. CHANGES AND CLAIMS

8.1 Owner shall have the right at any time during the progress of the Work to increase or decrease the Services required by a Work Order or the time required for delivery of the Services (a "Change") pursuant to this Agreement. Any modification to a Work Order or this Agreement shall be set forth in a Change Form executed by the City and the Contractor, which documents the parties' mutual agreement as to the effect of the Change, the modification of the scope of the Work Order, and/or the amount of time required by a Work Order. It is expressly agreed that, except in an emergency endangering life or property, no additions or changes to the Work shall be made except upon written order of Owner, and Owner shall not be liable to Contractor for any extra labor, materials, or equipment furnished without such written order. No officer, employee, or agent of Owner is authorized to direct any extra or changed work by verbal order nor is Contractor authorized to proceed with any Work upon verbal order that results in a modification to the time or price of a Work Order.

8.2 The unit prices set forth in **Exhibit A.1** shall not be subject to modification pursuant to this Article. Except as provided by applicable law, in no event will a Change Order exceed the Total Sum authorized by the City pursuant to this Agreement.

8.3 Subject to the limitations set forth in Article 17, Contractor shall provide written notice to the City of any Claim within seven (7) calendar days of the occurrence of the event giving rise to the Claim, as well as (a) a narrative statement describing the amount and bases of the Claim; (b) the precise number of days claimed as a result of any delay or impact to the Work; and (c) a detailed calculation of the precise amount of additional compensation claimed with all required supporting Documentation. The failure of the Contractor to file any Claim within the time limits prescribed herein or in the form or manner as required hereby shall be deemed a material prejudice to the interests of the City and shall constitute a waiver and release of the Claim and the right to file or thereafter prosecute the same.

## 9. TIME

9.1 The Parties acknowledge that TIME IS OF THE ESSENCE for performance of the obligations required by this Agreement.

9.2 Contractor shall commence Work and proceed diligently with the Services, in accordance with the time specified by a Work Order. Contractor shall achieve Substantial Completion and Final Completion of the Services required by a Work Order within the times set forth in a Work Order.

9.2.1 When Contractor believes that the Services that are the subject of a Work Order are substantially complete, Contractor shall prepare a list of items and deliverables to be completed or corrected. The City may review the list of items and deliverables to be completed or corrected prepared by the Contractor and review the Services within a reasonable time after receipt of written notice from the Contractor and modify this list to include additional items. After Contractor has completed or corrected items necessary for achieving Substantial Completion it shall notify the City in writing. Thereafter, the City will review the Services and notify the Contractor in writing whether the Services have achieved Substantial Completion, as applicable.

9.2.2 If applicable, upon achieving Substantial Completion of the Services, as required by a Work Order, the Contractor will identify all punch-list items necessary for achieving Final Completion of the Work and provide this information to the City. After completion of all punch-list items and delivery of all Documentation necessary for Final Completion of a Work Order, the Contractor shall forward written notice to the City that the Services are ready for final review and acceptance and shall also forward a final application for payment. When the City finds that the Services are acceptable and fully completed in accordance with the Agreement Documents, the City will issue a certificate for Final Payment that will approve the Final Payment due the Contractor under an applicable Work Order.

9.2.3 Neither Final Payment nor retention shall become due until the Contractor submits to the City the following: (a) an affidavit that all payrolls and other indebtedness connected with the Work have been paid or otherwise satisfied; (b) consent of Contractor's surety to Final Payment; and (c) any Drawings and Documentation required by a Work Order.

9.2.4 The acceptance of Final Payment by Contractor shall constitute a complete waiver and release of all claims against the City by Contractor.

9.3 In the event Contractor fails to achieve either Substantial Completion or Final Completion within the time required by a Work Order, then Contractor or its sureties shall pay to the City the following amounts upon demand:

Applicable Range of Estimated Work Order Amount	Substantial Completion Liquidated Damages	Final Completion Liquidated Damages
0 to \$50,000		
\$50,000.01 - \$100,000		
\$100,000.01 - \$250,000		
\$250,000.01 - \$500,000		
\$500,000.01 - \$1,000,000		
Over \$1,000,000.00		

9.3.3 The amounts set forth in Articles 9.3.1 and 9.3.2 shall be referred to herein as "Liquidated Damages." The amount of such charges is hereby agreed upon as a reasonable estimate of the probable loss of the City in the event Contractor fails to achieve the Substantial Completion and/or the Final Completion requirements of Work Orders. The Liquidated Damages are fixed per this Article 9 because of the difficulty of ascertaining the exact amount of losses the City will actually incur as a result of Contractor's delayed completion of a Work Order.

9.4 No payment(s) made, payment application(s) approved, partial use of the Services, or complete use of the Work by the City shall be deemed an acceptance of Services that do not conform to the requirements of the Agreement Documents.

**10. FAILURE TO PERFORM AND TERMINATION FOR DEFAULT.**

10.1 If Contractor (a) fails or refuses to proceed with or to perform its Work in accordance with the Agreement Documents, (b) fails or refuses to perform properly or abide by any terms, covenants, conditions or provisions contained in this Agreement or (c) fails or refuses to obey laws, ordinances, regulations or other codes of conduct, Owner shall have the right to terminate Contractor's right to proceed under this Agreement. If Owner determines that Contractor has not remedied and cured the default or defaults in its performance within seven (7) calendar days following receipt by Contractor of written notice of said default or defaults or such shorter period as the circumstances may justify, in which case such shorter period shall be identified in Owner's written notice, then Owner may, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without prejudice to any other right it may be entitled to hereunder or by law, terminate Contractor's right to proceed under a Work Order or this Agreement and take possession of the Work and all materials, tools, equipment and appliances of Contractor, take assignment of all of Contractor's subcontracts and purchase orders, and complete Contractor's Work by whatever means, methods or agency which Owner may, in its sole discretion, choose. In the event that Contractor's right to proceed has been terminated, Contractor agrees that it shall not be entitled to receive any further payment until after the Work has been completed. Moreover, all monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other direct and indirect expenses (including attorneys' fees, arbitrator's fees, filing fees, expert fees, and all other costs and expenses associated with the default) incurred by Owner incident to such completion, shall be deducted from any amounts otherwise due or to become due the Contractor, and if such expenditures, together with said costs, losses, damages and extra expenses, exceed the unpaid balance of the Work Order Maximum Payment Amount, Contractor and its surety

agree to pay promptly to Owner, on demand, the full amount of such excess, including costs of collection, attorneys' fees and interest thereon at the maximum legal rate of interest until paid.

10.2 Owner's determination of Contractor's default or defaults and Owner's decision as to Contractor's failure to remedy and cure said default or defaults upon notification of their existence, made by Owner under the belief that a default or defaults existed under the terms hereof and that Contractor failed to remedy and cure said default or defaults, shall be conclusive (a) as to Owner's right to proceed as herein provided, and (b) as to Contractor's surety's obligation to perform the obligations assumed under Contractor's performance and/or payment bond. The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained and obligations assumed by Owner under the belief that such payments or assumptions were necessary or required (a) in completion of the Work and in providing labor, materials, equipment, supplies and other items therefor or re-letting the Agreement and (b) in settlement, discharge or compromise of any claims, demands, suits and judgments pertaining to or arising out of the Work hereunder. A sworn itemized statement thereof or the checks or other evidence of payment shall be *prima facie* evidence of the fact and extent of Contractor's liability.

10.3 In the event Contractor is in default, Owner shall have the right to supplement Contractor's forces without terminating this Agreement for default and deduct the cost of the same from any amounts otherwise due Contractor.

10.4 In the event any termination for default is found to be wrongful or improper, Contractor agrees that its sole and exclusive remedy is to have the termination treated as a termination for convenience in accordance with Article 11, Termination for Convenience.

10.5 In addition to the bases for termination of this Agreement under Articles 10.1 and 10.2, the City may, at its option, terminate this Agreement for cause immediately by providing written notice to Contractor if Contractor engages in behavior that is dishonest, fraudulent, or constitutes a conflict of interest with Contractor's obligations under this Agreement or is in violation of any of the City's Ethics Ordinances. Contractor shall immediately notify the City in writing, specifically disclosing any and all potential or actual conflicts of interest, which arise or may arise during the Term of this Agreement. City shall make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

## **11. Termination For Convenience; Termination For Lack Of Appropriations.**

11.1 Termination For Convenience. The City shall have the right to terminate this agreement or a Work Order without cause upon seven (7) calendar days' written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against Owner shall be limited to Services performed through the date of termination, calculated on a percent complete basis, together with any retainage withheld, if applicable, plus reasonable close-out and termination costs approved by the Owner, less the amount of prior payments to the Contractor, and Contractor shall not be entitled to any other and further recovery against Owner, including, but not limited to, anticipated profit on work not performed. In no event shall Contractor be entitled to a "cost-plus" recovery from Owner.

11.2 TERMINATION For Lack Of Appropriations. If, during any year of this Agreement, legislation establishing a Total Sum for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the Agreement term for which a total sum has been legislatively authorized; provided, however, that Work Orders funded out of a previously legislatively authorized total sum amount may continue beyond such termination date. Furthermore, at any time during the term of this Agreement, City shall be entitled to terminate the Agreement for lack of appropriations or sufficient

funding under the agreement upon providing thirty (30) days written notice to Contractor that the sufficient funding is not present to perform the Services under this Agreement. If the City terminates the Agreement pursuant to this provision, Contractor's recovery against Owner shall be in accordance with Section 11.1, above.

## 12. FORCE MAJEURE

Any delay in performance caused by terrorist attacks, insurrections, storms, fires, hurricanes, tornadoes, earth quakes, or other acts of God ("Force Majeure Event") shall excuse the performance of both parties for the duration the Force Majeure Event is in effect. If the Contractor is delayed at any time in the progress of the Work by a Force Majeure Event, then Contractor will be entitled to seek a Change Order in accordance with the requirements of Article 8. Any extension of Contract Time on account of a Force Majeure Event shall be net of any delays caused by or due to the fault or negligence of Contractor. The Contractor shall cooperate in good faith with the City to minimize the impact of any such occurrence. No extension of time shall be granted unless the Force Majeure Event causes a delay to a Substantial Completion Date, and such delay is proven by an independent critical path analysis of the effected work activities. Contractor shall not be entitled to any compensation for a Force Majeure Event delay. Contractor's sole remedy for Force Majeure Event delay shall be a time extension.

## 13. WARRANTY

Contractor warrants to the City that all materials and equipment furnished under this Agreement will be new and of workmanlike quality unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Agreement Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by City, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by any other provision of the Agreement Documents. The Warranties set forth in this Article and elsewhere in the Agreement Documents shall survive Final Completion of any Work done and the Agreement Term. All warranties are in addition to the rights, remedies, and redress that the City has at law or in equity, and none of Contractor's warranties shall be deemed a sole or exclusive remedy to the City.

13.2 If within one (1) year from the expiration of the Agreement Term or Final Completion of a Work Order (whichever timeframe is longer), or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Agreement Documents ("Warranty Period"), any of the Work is found to be defective or not in accordance with the Agreement Documents, Contractor shall correct it promptly after receipt of a written notice from the City to do so. This obligation shall survive both Final Payment for the Work or designated portion thereof and termination of the Agreement. Contractor acknowledges that the Warranty Period provides a period during which Contractor has a duty to repair and does not in any way limit Contractor's liability for Work that is not in accordance with the Agreement Documents, including any that may be discovered more than one (1) year after the date of Final Completion of a Work Order or expiration of the Agreement Term.

13.3 Without limiting the responsibility or liability of Contractor under the Agreement, all warranties given by manufacturers on materials or equipment incorporated in the Work are hereby assigned by Contractor to the City at no additional cost to the City. If requested, Contractor shall execute enforceable formal assignments of said manufacturer's warranties to the City at no additional cost to the City. Contractor shall not obtain any materials or equipment under warranties, which do not run directly to the benefit of the City, and all such warranties shall be directly enforceable by the City.

13.4 The foregoing warranties, and those contained elsewhere in the Agreement Documents or implied by law, shall be deemed cumulative and not alternative or exclusive. No one or more of them shall be deemed to alter or limit any other.

#### 14. CORRECTION OF THE WORK

The Contractor shall promptly correct Work rejected by the City or Work failing to conform to the requirements of the Agreement Documents, whether discovered before or after Substantial Completion of a Work Order and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Owner's, Owner's consultants, or a design professionals' services and expenses made necessary thereby, shall be at the Contractor's expense. If the Contractor fails to correct defective or non-conforming Work within seventy-two (72) hours from receipt of the City's written notice, then the City shall have the right to correct the defective or non-conforming work at Contractor's expense.

#### 15. INDEMNIFICATION

15.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Owner and from and against any and all claims, damages, losses, demands, judgments and costs of suit or defense, including attorneys' fees, and reimburse Owner for any expense, damage or liability incurred by Owner whether for personal injury, property damage, direct or consequential damage, or economic loss arising or alleged to have arisen from the acts or omissions of Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to any party or person. This indemnity obligation shall include, but not be limited to, claims made or lawsuits filed by employees of Contractor or employees of anyone for whose acts Contractor may be liable, and claims made or lawsuits filed by employees of Owner. The foregoing indemnification does not apply to claims arising out of the sole negligence of Owner. Contractor further agrees to reimburse Owner for all costs and expenses, including attorneys' fees, expert witness fees, and/or consultant fees incurred to enforce these indemnity obligations.

15.2 Contractor will save and keep all Projects related to this Agreement free from all mechanics' liens and all other liens by reason of its Work or of any materials or other things used by it therein. If Contractor fails to remove any lien by bonding it, or otherwise, Owner, among other remedies, may retain sufficient funds out of any money due or thereafter to become due by Owner to Contractor to pay the same and all costs incurred by reason thereof, and may pay said lien or liens and Owner's costs associated with the lien or liens including reasonable attorneys' fees out of any funds at any time in the hands of Owner owing to Contractor. Contractor agrees that it shall be obliged to bond off any claim of lien of any of its subcontractors or suppliers notwithstanding any claim or argument as to non-payment or an alleged prior breach by Owner as an alleged result of non-payment. Contractor's obligation to bond off all liens of its subcontractors and suppliers is absolute and unconditional, and Contractor's failure to bond off any lien shall be deemed a material breach and default of this Agreement. Contractor's performance and/or payment bond sureties shall be obliged to bond all liens filed by subcontractors and suppliers of Contractor in the event that Contractor fails for any reason whatsoever to bond any such lien filed after ten (10) days written notice from Owner to Contractor demanding the bonding of such lien(s). Contractor understands and agrees that it shall ensure that its own subcontractors and suppliers have the same obligations as Contractor under this Article.

15.3 Contractor shall indemnify and hold City, harmless from and against any losses, liabilities, damages, demands and claims, and all related costs (including reasonable attorneys' fees and costs of

investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon any of the Work, Services, materials or methodologies used by Contractor (or any Contractor agent, subcontractor, sub-tier contractor or representative), or the City's use thereof (or access or other rights thereto) in connection with the Work, infringes or misappropriates the intellectual property rights of a third party. If any Work, Services, materials, or methodologies provided by Contractor hereunder is held to constitute, or in the City's reasonable judgment is likely to constitute, an infringement or misappropriation, the City may direct that Contractor: (i) procure the right for the City to continue using such Work, Services, or methodologies; (ii) replace such Work, Services, materials or methodologies with a non-infringing equivalent, provided that such replacement does not result in a degradation of the functionality, performance or quality of the Work; (iii) modify such Work, Services, materials or methodologies, or have such Work, Services, materials or methodologies modified, to make them non-infringing, provided that such modification does not result in a degradation of the functionality, performance or quality of the Work, Services, materials or methodologies; or (iv) create a feasible workaround that would not have any adverse impact on City.

## 16. DISPUTE RESOLUTION

16.1 At the City's sole election, any Claim arising out of or related to the Agreement shall be subject either to binding arbitration or litigation at the City's option. Prior to arbitration or litigation, the parties shall endeavor to resolve Claims or disputes in accordance with the terms of this Agreement.

16.2 If Claims are not resolved by negotiation, mediation, or otherwise, and the Owner elects arbitration, the arbitration shall be held in Atlanta, Georgia and shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently then in effect or such other similar rules and organization as the Owner may elect. The demand for arbitration shall be in writing and filed with the appropriate organization selected by the Owner and shall be served on the Contractor. The agreement to arbitrate shall be specifically enforceable under applicable law in any court having jurisdiction thereof. In any arbitration or litigation, the arbitrators or the Court shall have the jurisdiction to award the City costs, arbitrator fees, expert fees, and attorneys' fees, and the arbitrators or the Court shall award all such fees to the City if it is the prevailing party.

16.3 Except at Owner's sole discretion and with its consent, no arbitration arising out of or relating to the Agreement shall include, by consolidation or joinder or in any other manner, any other person or entity, including but not limited to any of Contractor's subcontractors and suppliers, and any other separate contractors or suppliers. The Owner's consent or election to allow consolidation or joinder shall not constitute consent to arbitration of any Claim not subject to arbitration pursuant to this Contract.

16.4 Any award rendered by an arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

16.5 If the Owner does not elect arbitration, any Claims shall be resolved in Fulton County, Georgia Superior Court. Contractor hereby submits to jurisdiction and venue in Fulton County, Georgia, and waives all defenses based on a lack of jurisdiction and/or venue. Contractor acknowledges that this Agreement was negotiated, at least in part, in Fulton County, Georgia. In any arbitration or litigation, the arbitrators or the Court shall have the jurisdiction to award the City costs, arbitrator fees, expert fees, and attorneys' fees, and the arbitrators or the Court shall award all such fees to the City if it is the prevailing party.

**17. EXTENSIONS OF TIME AND DELAY**

Contractor shall not be entitled to payment or compensation of any kind from the City for indirect, impact, or delay damages, including but not limited to costs of delay, disruption, interference, ripple effect, unforeseen site conditions, loss of anticipated profits, impact or hindrance from any cause whatsoever (collectively "Delay Damages"), whether such delay, disruption, interference, ripple effect, unforeseen site conditions, impact or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor expressly waives and releases any Claim for Delay Damages and agrees that Contractor's sole and exclusive remedy for any delay shall be an extension of time to perform the Work and Services required the Agreement Documents, which shall be administered in accordance with the requirements of Article 8.

**18. MISCELLANEOUS**

18.1 The law of the state of Georgia will govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

18.2 If any of the provisions contained in the Agreement Documents are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and the Agreement Documents will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18.3 Contractor shall not sell, transfer, or assign any or all of its respective rights and obligations under this Agreement to a third party without the City's written consent. Any attempted sale, transfer, or assignment of the rights or obligations of this Agreement shall be void and of no effect.

18.4 Articles 1, 4, 5, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, and 20 shall survive termination of this Agreement.

18.5 The Drawings or other Instruments of Service prepared by Contractor or its sub-tier contractors shall be owned by the City and may be used by the City on projects other than the Project(s) performed in connection with a Work Order issued per this Agreement.

18.6 Except as otherwise provided herein, all notices and other communications required or permitted to be given under this Agreement, including its Exhibits and Work Orders, shall be in writing, addressed to the parties at their respective addresses as provided below, and may be delivered in person, sent by overnight express mail or courier service, or by facsimile, or by certified mail postage prepaid, return receipt requested. The addresses of each party are as follows:

_____	_____
_____	_____
_____	_____

Each party may from time to time change its address for receipt of notices by sending notice thereof in the manner provided herein to the other Party.

18.7 The failure of the City to insist upon or enforce strict performance of any provision of this Agreement or to exercise any right under the Agreement Documents shall not be construed as a waiver or relinquishment of the City's right to assert or rely upon any such provision or right and/or any other requirement of the Agreement Documents.

18.8 The Agreement Documents constitute the entire agreement and supersede all prior written or oral understandings, and may only be changed by a written amendment to the Agreement executed by both the City and the Contractor.

18.9 Contractor acknowledges and agrees that it may be adequately compensated in money damages for any Claims arising from performance of the Agreement Documents. Accordingly, Contractor waives and releases any right to assert a claim for *quantum meruit*, unjust enrichment, and any other equitable or quasi-contractual claim for relief that may be available under applicable law.

18.10 During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1441 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity ("EBO") Program as may be hereafter amended.

18.11 No presumption of any applicable law relating to the interpretation of contracts against the drafter shall apply to this Agreement.

18.12 Contractor is an independent contractor of the City and nothing in this Agreement shall be deemed to constitute Contractor and the City as partners, joint venturers, or be construed as requiring or permitting the sharing of profits or losses. Except as expressly provided in Article 6.10, nothing in this Agreement shall be deemed to constitute Contractor and the City as principal and agent and neither party has the authority to represent or bind or create any legal obligations for or on behalf of the other party.

18.13 Contractor acknowledges that this Agreement and any changes to it by amendment, modification, Change Order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, Contractor is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Contractor's provision of goods or Services to the City under an unauthorized contract, amendment, modification, Change Order or other similar document, including the possibility that the Contractor may be precluded from recovering payment for such unauthorized goods or Services. Accordingly, Contractor agrees that if it provides goods or Services to the City under a contract that has not received proper legislative authorization or if Contractor provides goods or Services to the City in excess of the any contractually authorized goods or Services, as required by the City's Charter and Code, the City may withhold payment for any unauthorized goods or Services provided by Contractor. Contractor assumes all risk of non-payment for the provision of any unauthorized goods or Services to the City, and it waives and releases all claims to payment or to other remedies for the provision of any unauthorized goods or Services to the City, however characterized, including, without limitation, all remedies at law or equity.

## 19. CONFIDENTIAL INFORMATION

Contractor agrees to preserve as strictly confidential all Confidential Information for two (2) years following the expiration or termination of this Agreement; provided, however, that Contractor's obligation for Confidential Information that constitutes trade secrets pursuant to applicable law will continue for so long as such Confidential Information continues to constitute a trade secret under applicable law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, Contractor will return any trade secrets to City. Contractor agrees to hold the Confidential Information of the City in trust and confidence and will not disclose it to any person, or use it (directly or indirectly) for its own benefit or the benefit of any other person other than in the performance of its obligations under this Agreement. Contractor will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or

administrative order; or (iii) any other requirement imposed upon it by applicable law. Prior to making such a disclosure, to the extent allowed pursuant to applicable law, the Contractor shall provide the City with thirty six (36) hours prior notice by facsimile of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the person requesting disclosure.

## 20. ETHICS IN CONTRACTS

20.1 Gratuities and Kickbacks. In accordance with the City of Atlanta's Code of Ordinances, Section 2-1484, as may be amended, it shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor. Additionally, it shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

20.2 Fraud and misrepresentations. Any written or oral information provided by Contractor directly or indirectly related to the performance of the Work required by this Agreement constitutes material representations upon which the City relies for the requirements of the Agreement and compliance with local, state and federal rules and regulations. Contractor agrees to immediately notify the City of any information provided to the City that it knows and/or believes to be false and/or erroneous and immediately provide correct information to the City and take corrective action. Contractor further agrees to immediately notify the City of any actions or information that it believes would constitute fraud or intentional misrepresentations to the City in the performance of this Agreement, whether or not such information actually constitutes fraud and/or intentional misrepresentations, by contacting the Integrity Line 1-800-884-0911. Contractor agrees to place signage provided by the City regarding the Integrity Line at the location to which Contractor's employees report to perform the Work required by this Agreement. Contractor acknowledges and agrees that a finding of fraud or other impropriety on the part of the Contractor or any of its subcontractors may result in suspension or debarment; and the City may pursue any other actions or remedies that the City may deem appropriate. Contractor agrees to include this clause in its subcontracts and take appropriate measures to ensure compliance with this provision.

*[Signatures on the following pages.]*

The parties hereto by authorized representatives have executed this Agreement as of the Effective Date.

**The City of Atlanta**

**[Contractor]**

\_\_\_\_\_  
**Mayor**

**Attest:**

\_\_\_\_\_  
**Municipal Clerk (Seal)**

**Recommended:**

**Chief Procurement Officer:**

\_\_\_\_\_  
**Commissioner:**

\_\_\_\_\_  
**Department of Watershed Management**

**Approved as to form:**

\_\_\_\_\_  
**City Attorney**

**DRAFT**

Signature Block Options for Contractor:

**Corporate signature:**

[Insert Corporate Name]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Corporate Secretary/Assistant

Secretary (Seal)

**Limited Liability Company:**

[Insert LLC Name]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Notary Public (Seal)

My Commission Expires:



# EXHIBITS

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# EXHIBIT A

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## GENERAL SCOPE OF WORK

## SCOPE OF WORK

### Annual Contract for Major Mechanical Service and Repairs

#### Part I

##### 1.01 SUMMARY

The City of Atlanta, Department of Watershed Management (the "City"), operates the Drinking Water System, Wastewater System and various other facilities in the Atlanta metropolitan area. The purpose of this proposal is to establish a contract for mechanical service for the City of Atlanta, Department of Watershed Management. This proposal will also identify Contractors capable of providing mechanical services; determine the rates charged for services; and to place contracts with Contractors for quick response in providing services on an as-needed basis. These services will be oriented towards completion of specific tasks. The City is under no obligation to exclusively award this work to a single proponent nor is the City bound to a minimum contract amount. The term of this contract shall be for a period of one (1) year with two (2) one-year renewal options.

**The City reserves the right to select more than one Contractor in order to fulfill the requirements of the Scope of Work for this project.**

##### 1.02 SCOPE

Under this contract, the Contractor will perform work at the City's facilities. Work will involve mechanical repairs and improvements, on major process, facility equipment, and facility infrastructure.

All work under this contract will be authorized using a City-issued Work Order Form. The City shall initiate the Work Order Form. The Contractor will respond to the Work Order with a written quote, which must be approved by the City prior to commencement of the work. The quote will be considered binding subject to the provisions of the contract. All costs must be itemized on the Work Order Form and the quote in accordance with the proposal document and must involve the use of specific, identified material, labor and equipment actually used to complete the Repair. Costs such as small tools, request preparation, project management, taxes, insurance, general office overhead, field overhead, fringes, benefits, travel time, per diem and profit must be included and individually identified in the Mark-up or the unit prices.

##### (a) Description of Positions

Contractor employees and subcontractors working under this contract must be qualified by training and experience for that position and hold any necessary licenses. Contractor employees or subcontractors who, in the sole judgment of the City, perform incompetently, unsafely, or in violation of facility requirements shall be removed from

the job site immediately at no cost to the City.

**(b) Training Requirements**

Contractor is required to ensure employee training for licensing, OSHA regulation compliance, or any other applicable regulatory agency is current and adequate for the work performed.

**(c) Other Requirements**

The use of Subcontractors is allowed if the City approves the Subcontractors. The Contractor is responsible for providing Subcontractor ability and qualifications' information on the City Work Order Form. The Contractor shall control and coordinate work of its Subcontractors. The Contractor shall be responsible for informing and supervision of its Subcontractors regarding all items, conditions, and requirements of the contract documents. The Contractor is responsible and liable for the work provided by the Subcontractor.

**(d) Equipment Needed**

1. Contract maintenance and mechanical personnel shall provide their own hand tools and personal protective equipment.
2. Some areas of the Facilities have a hazardous classification. In areas rated for hazardous atmospheres, only equipment manufactured to meet the hazard class of the area may be used. All services completed in these areas should follow the requirements of the National Mechanical Code and National Electric Code (as applicable).
3. The equipment, required for a particular service, shall be purchased at the Contractor's Expense. At the City's option, any equipment purchased for the service referred by the City Work Order Form, shall be transferred to the City at the completion of the service.

**(e) Availability**

The City Work Order Form will contain the unit costs submitted in the service request, additional equipment and material with specified markup. No other costs besides unit prices and specified markups will be accepted. Refusal of any Work Order will negatively affect selection of the Contractor by the City's representative for future work and may be dismissed at the discretion of the City at no additional expense to the City.

**(f) Safety**

The City has a Safety Program that the Contractor shall adhere to when providing services. In addition, services provided by the Contractor's personnel and subcontractors shall be completed following Occupational Safety and Health Administration ("OSHA") regulations.

Contractor personnel may be dismissed at the discretion of the City from the facility for any violation of the City safety guidelines or for noncompliance with OSHA requirements. Contractor shall be required to replace dismissed personnel at no additional expense to the City.

## **Part II**

### **2.01 SERVICE AND MATERIAL REQUIREMENTS**

This section describes the service and material requirements as well as specific training and skills:

#### **(a) Service Unit Prices**

The Contractor shall provide a unit price for the different skilled positions. Unit pricing for Contractor's personnel for different trades or special training shall also be included on this form. This price shall include all salary costs, benefit costs, specific overhead, taxes, insurance, small tools, transportation to the Repair/Replace, and all other costs attributed to that employee including overhead and profit. Only the time spent in the field (time from when the personnel report to the City until the personnel leave the job site) may be billed to the City.

#### **(b) Equipment, Processes and Facilities Serviced \*\*\***

1. Sub-surface investigation, repair and /or replacement of pipe, valves and other appurtenances, including piping and valves for conveyance of water, wastewater, chemicals, and natural gas or methane.
2. Replacement / installation of gratings, hand rails, walls, ladders, cages, and other safety barriers and safety equipment.
3. Repairs utilizing specialized equipment required to carry out the work, including excavators and mobile cranes. This may include line-stops, pipe freezing, wet-taps, heavy lifting equipment, concrete cutting/boring, paving, by-pass pumping or other specialized equipment.
4. Upgrades to mechanical or incidental electrical repairs associated with mechanical work.
5. Installation of new equipment, utilities, pipe or valves, City purchased or contractor purchased.
6. Demolition of existing equipment, structures or facilities, with disposal as requested.
7. Removal, repair and reinstallation of process equipment. Startup services when requested.

8. Provision of temporary facilities or equipment for use by City personnel.
9. Concrete work, masonry, paving, repair and replacement of manholes, curb and gutter, grouting, etc.
10. Woodworking, flooring, ceiling repair or replacement, window replacement, tile work, and painting or coating (interior and exterior).
11. Welding, machining and cutting of metals or composites.
12. Civil work, including excavation, cut and fill, grading, berm construction or repair.
13. Repair or replacement of chemical feed systems or components.
14. Installation, repair or replacement of secondary spill containment.
15. Plumbing, fixing leaks, replacement of fixtures with high-efficiency models.
16. Fence and gate repair.
17. Repair of boilers and other industrial equipment.
18. Cleaning out grit and debris from structures, including deep tunnels and wet wells
19. Any other mechanical/process work considered to be outside the scope of normal corrective or preventative maintenance.

In the event that the City has an alternative contract for any portion of a City work order issued under this contract, it will be at the discretion of the City to utilize the alternative contract(s) for any portion of the work requested.

**(c) Materials and Supplies**

1. The Contractor shall provide information on equipment and materials required for each repair. Where a City purchase order exists for specific equipment or materials, the City shall purchase these items at their discretion. For common items used that may not be available at the Facility, the Contractor may purchase them upon approval by the City.
2. Any items purchased by the Contractor, which will be permanently installed in the City facilities, must be new and unused. The City maintains an inventory of such common items such as piping, valves, wiring, conduit, tubing, hoses, fittings, and connectors. Items to be supplied by the City shall be stated at the beginning of the repair assigned to a Contractor.
3. Replacement parts for critical equipment are maintained at each location. Contractor

shall document the use of replacement parts on the City's generated Work Order and give this to the City. All items supplied by the Contractor shall be of the type and manufacture specified by the City. Substitutions of items require approval of the City.

### **Part III**

#### **3.01 EXECUTION**

##### **(a) Contractor Approval**

The Contractor must submit the completed Work Order Form and all required documentation for evaluation.

##### **(b) Request for Contractor Service**

When work is required, the City will request Work Orders from an approved Contractor and will select a proposal that best meets the requirements of the repair. The selection will be made on basis of price, past performance, capability to handle the repair, and availability. The City will approve the Repair proposal in writing

Once called, the Contractor will be notified of the type of service response needed. When the Contractor's personnel arrive at the work site, they shall report to the City for work instructions. Work instructions will include work orders, drawings, specifications, and any other directions or information needed to complete the Work.

##### **(c) Documents**

Contractor personnel will receive instructions on completing required paperwork such as work orders, preventative maintenance and corrective maintenance forms. Contractor personnel shall maintain at the work site, drawings, specifications, work orders or other modifications, in good order and marked correctly to record changes and selections made during work.

The Contractor shall cooperate with the City in providing needed information to start and complete work orders for the computerized maintenance management system. These shall be given to the City upon completion of the Work.

##### **(d) Quality Assurance**

The Contractor shall keep the City informed of the progress of the Contractor's Work. City selected inspections or tests shall be conclusive as to whether the material and workmanship inspected or tested conforms to the requirements of the Contract. If the repair is not completed as required, the Contractor shall correct the problem without additional expense to the City.

##### **(e) Non-performance**

In the event that the Contractor does not fulfill their obligations under the terms and

conditions of this specification for an approved Work Order or does not report to the job site when required, the City may call another Contractor to perform the original service request.

If another Contractor must be called to complete the service request, the original Contractor shall not receive payment for work performed up to that point until all costs attributed to the non-performance are realized and deducted. This arrangement is required to cover additional expenses incurred, such as mobilization, incentive fees, and removing poor quality work, when completing the original service request.

**(f) Cleaning Up**

The Contractor shall keep work areas, where service is being conducted, free from accumulation of waste materials.

Contract personnel shall conduct orderly operations at the site with materials and equipment. At the end of the working day, the Contractor shall remove from the work site any project waste materials, rubbish, Contractor's tools, construction equipment, machinery and surplus materials.

**(g) Access to Work**

Contract personnel shall park only in parking areas designated by the City. When requested to work at a Combined Sewer Overflow ("CSO") or Pumping Station facility that is normally unstaffed, contract personnel will be given directions to the site and the name of a person to whom they shall report and the time that they shall arrive at the facility to get further instructions. The Contractor shall provide the City access to the work in progress.

**(h) Billing**

Contractor personnel shall complete a daily time sheet. The time sheet shall list the number of hours worked, each of the Contractor's personnel, the date, the facility's address, and the Contractor's name, address and phone number. The City or his designee must approve the daily time sheet each day. The Contractor shall give a copy of the time sheet to the City.

For each facility, the Contractor will submit one (1) invoice at the end of each month for Work supplied to the City. The following items shall be listed on the invoice: date of service, hours of service and charges, itemized listing of parts and costs, the name of the person who requested the service, Subcontractor breakdown, overtime, a totalized amount for the month, time sheets and an address where payment is to be made. Invoices shall be completed and submitted by the 10<sup>th</sup> of the month following the work.

**3.02 WORK ORDER FORM**

The Contractor shall provide a proposal to perform work by using a work order form (Exhibit A.2.) in response to the City's work order request. Unit pricing for Contractor's

personnel for different trades or special training shall also be included in the proposal. This price should include all salary costs, benefit costs, specific overhead, taxes, insurance, small tools, transportation to the repair, and all other costs attributed to that employee, with the exception of the incentive fees.

For a Work Order, only the time spent in the field (time from when the personnel report to the City until the personnel leaves the job site) may be billed to the City. In the event that the work requires personnel and equipment, which is not covered under the unit rates, then Contractor will be compensated as detailed in the Construction Services Agreement.

# EXHIBIT A.1

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## COST PROPOSAL

## PROPOSAL FORM

### Annual Contract for Major Mechanical Repairs

TO: The City of Atlanta, Georgia      Submitted: \_\_\_\_\_, 20\_\_\_\_.

The undersigned, as Proponent, hereby declares that the only person or persons interested in this Proposal, as principal or principals, is or are named herein and that no other person, than herein mentioned has any interest in this Proposal or in the Agreement to be entered into, that this Proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and good faith without collusion or fraud.

The Proponent further declares that he has examined the Site of Work and fully informed himself in regard to all conditions pertaining to the place where the Work is to be done; that he has examined the Agreement Documents for the Work furnished prior to the opening of Proposals; and that he has satisfied himself relative to the Work to be performed.

The Proponent proposes and agrees, if this Proposal is accepted, to contract with the City, in the form of Agreement specified, to furnish all necessary Materials, Equipment, means of transportation and labor necessary, and to complete this Project in full and complete accordance with the shown, noted, described and reasonably intended requirements of the Agreement Document to the full and entire satisfaction of the City, and with a definite understanding that no money will be allowed for extra work except as set forth in the Agreement Document.

Proponent hereby agrees to commence Work under this Agreement on or before a date to be specified in the written "Notice to Proceed" from the City.

The undersigned acknowledges receipt of addenda numbered \_\_\_ through \_\_\_

In accordance with the above understanding, the undersigned proposes to do all of the Work, furnish all of the Materials, and complete the Work in accordance with the Agreement Documents for the Total Proposal.

## Exhibit A-1 – Cost Proposal

### PROPOSAL FORM

**Group A - Mechanical Labor:** For furnishing labor necessary for completion of work items to be determined by the City:

Item	Description	# of Hours	Hourly Rate	Total Price
1.	Master Mechanic	300	\$ _____	\$ _____
2.	Master Millwright	80	\$ _____	\$ _____
3.	Journeyman Millwright	400	\$ _____	\$ _____
4.	Apprentice Millwright	80	\$ _____	\$ _____
5.	Laborer	400	\$ _____	\$ _____
6.	Carpenter	200	\$ _____	\$ _____
7.	Mechanic Helper	300	\$ _____	\$ _____
8.	Master pipe fitter	350	\$ _____	\$ _____
9.	Journeyman Pipe fitter	350	\$ _____	\$ _____
10.	Pipe fitter helper	350	\$ _____	\$ _____
11.	Master boiler mechanic (certified)	100	\$ _____	\$ _____
12.	Journeyman Boiler Mechanic	60	\$ _____	\$ _____
13.	Boiler Mechanic Helper	60	\$ _____	\$ _____
14.	Project Manager	200	\$ _____	\$ _____
15.	Supervisor	200	\$ _____	\$ _____
16.	Lead Electrical Supervisor	500	\$ _____	\$ _____
17.	Field Superintendent	300	\$ _____	\$ _____
18.	Equipment Operator	300	\$ _____	\$ _____
19.	Project Coordinator/Scheduler	200	\$ _____	\$ _____
20.	Billing Specialist	100	\$ _____	\$ _____

Sub-Total, Group A, Items 1 through 20, the amount of \$ \_\_\_\_\_ Dollars

**Group B - Mechanical Materials:** For furnishing materials (at job site without installation) necessary for completion of work items to be determined by the City of Atlanta. Materials to be furnished as list price minus discount.

Discount off list for materials	_____ 0 _____ %
Requested Contingency	\$ <u>2,750,000</u>
Subtotal for Group B,	\$ <u>2,750,000</u> DOLLARS

**Group C - Alternates/Subcontractors:**

Materials will be billed at invoice cost plus \_\_\_\_\_ % (no more than 5%)  
Rentals will be billed at actual cost plus \_\_\_\_\_ % (no more than 5%)  
Subcontractors will be billed at actual cost plus \_\_\_\_\_ % (no more than 5%)  
Company owned equipment will be billed at \_\_\_\_\_ % of the latest Blue Book Rates (Plus fuel and delivery)

For PROPOSAL TOTAL OF ALL GROUPS (Groups A through B):

\$ \_\_\_\_\_ DOLLARS

In Written Words,

\_\_\_\_\_ DOLLARS.

The undersigned acknowledges that the above is a binding bid and is subject to the terms of the Annual Contract for Major Mechanical Repairs and Service:

Name: (legibly printed or typed): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT A.2

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## WORK ORDER

**EXHIBIT A.2**

**WORK ORDER NO. \_\_\_\_\_ FOR PROJECT \_\_\_\_\_**

Contractor will complete the Services described below in accordance with the terms and conditions in the Construction Service Agreement.

**PROJECT:** \_\_\_\_\_

**SERVICES UNDER WORK ORDER NO. \_\_\_\_\_:**

Contractor shall perform the Services for the purpose of [insert general description of Services to be performed], as more particularly described in the scope of work and accepted proposal from Contractor attached and incorporated herein as **Exhibit 1** to this Work Order No. \_\_\_\_\_, including the attached schedule of unit prices for performing the required Services.

**NOTICE TO PROCEED:**

[check one of the following provisions]

\_\_\_\_ Contractor shall commence Work within \_\_\_\_\_ days of the date of this Work Order.

\_\_\_\_ Contractor shall commence Work within \_\_\_\_\_ days of receipt of a Notice To Proceed Work issued by the City.

**TIME FOR COMPLETION:** [identify with specificity all dates for Services from Contractor]

- a. Substantial Completion:
- b. Final Completion:
- c. Milestones:

**PAYMENT METHOD:**

\_\_\_\_ Option 1: (Section 4.1.1); or

\_\_\_\_ Option 2: (Section 4.1.2)

**WORK ORDER MAXIMUM PAYMENT AMOUNT:**

[insert total amount of payment for this Work Order based on unit prices in Exhibit A.1]

**REQUIRED SUBMITTAL AND DOCUMENTATION:**

[INSERT ANY AND ALL DOCUMENTATION REQUIRED FOR SERVICES, INCLUDING ALL SHOP DRAWINGS, AS-BUILTS REQUIRED FOR FINAL ACCEPTANCE]

**LIST OF APPROVED MATERIALS AND EQUIPMENT: (IF REQUIRED FOR A WORK ORDER, LIST ALL APPROVED MANUFACTURERS AND EQUIPMENT PROVIDERS APPROVED IN CONTRATOR'S PROPOSAL)**

**FINAL ACCEPTANCE OF WORK REQUIRMENTS:**

[INSERT SPECIAL TEMS FOR FINAL ACCEPTANCE OF WORK, INCLUDING ANY SIGN OFFS, DELIVERABLES]

**CONFIRMATION THAT SERVICES AS LISTED ARE REQUESTED BY THE CITY**

BY: \_\_\_\_\_

Name:

Title:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

**CONFIRMATION OF SERVICE ASSIGNMENT ACCEPTED BY CONTRACTOR**

By: \_\_\_\_\_

Name:

Title:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

**DRAFT**

# APPENDICES

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# APPENDIX A

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## OFFICE OF CONTRACT COMPLIANCE REQUIREMENTS



## CITY OF ATLANTA

Kasim Reed  
Mayor

SUITE 1700  
55 TRINITY AVENUE, SW  
ATLANTA, GA 30303  
(404) 330-6010 Fax: (404) 658-7359  
Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

OFFICE OF CONTRACT COMPLIANCE  
Larry Scott  
Director  
[lscott@atlantaga.gov](mailto:lscott@atlantaga.gov)

February 3, 2016

**RE: Project No.: FC-8744, Annual Contract for Major Mechanical Repairs and Service**

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance (OCC) information is an integral part of every eligible City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including Small Business Enterprises (SBE) opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goals for SBE participation for this project and the SBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

**The City of Atlanta looks forward to the opportunity to do business with your company.**

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## CITY OF ATLANTA

Kasim Reed  
Mayor

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### CITY OF ATLANTA

### SMALL BUSINESS OPPORTUNITY PROGRAM

### POLICY STATEMENT

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis size as it relates to revenue and number of employees. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed its' various diversity inclusion programs. The purpose of the Small Business Opportunity Program is to ensure that the City of Atlanta has a robust race-neutral approach to promoting full and equal business opportunity for all persons doing business with the City of Atlanta, to promote commerce by assisting Small Business Enterprises (SBEs) to actively participate in the City's procurement process, and ensure that the City of Atlanta utilizes programs that provide it with the best possible resources.

It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of these program is to mitigate the present and ongoing effects of the past and present discrimination against women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including firms that are Small Business Enterprises themselves must comply with the City of Atlanta's SBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

### Implementation of SBO Policy

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for small businesses to compete for business as subcontractors and/or suppliers. A Bidder is eligible to be further considered for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the SBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include all subcontractors (both small and non-small business enterprises) to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta SBE certification number and supplier id number as applicable.

For suppliers, the Subcontractor Project Plan must include all subcontractors (both small and non-small business enterprises), the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta SBE certification number and supplier id number as applicable.

### Determination of Non-discrimination During Bid Process

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1372 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit SBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified SBEs as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit SBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business, certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an SBE, the SBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to change the subcontractor project plan must be submitted prior to any change in the plan or termination of an SBE's contract.

## OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified SBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified SBEs within the relevant NAICS Codes for such Eligible Project.

(a) Receipt of Complaint of Discrimination in the Bid Process

The office of contract compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) Determination of Violation of SBO Process

Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) Office of Contract Compliance Determination of Non-Compliance

When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

### **Small Business Opportunity Program Bid/RFP Submittals**

The Office of Contract Compliance will make any determination of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448 must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

### **Monitoring Of SBO Policy**

Upon execution of a contract with the City of Atlanta, the successful bidder's Subcontractor Project Plan will become a part of the contract between the bidder and the City of Atlanta. The Subcontractor Project Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific EBO information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, require joint check issuance, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Sections 2-1452 and 2-1456.

### **Implementation of EEO Policy**

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

### **Monitoring of EEO Policy**

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

**Equal Business Opportunity SBE GOALS for this Project**

**Project No.: FC-8744, Annual Contract for Major Mechanical Repairs and Service**

The dominant NAICS code and trade to be engaged for the above referenced solicitation is:

**238220 Mechanical Contractors**

The EBO goals for the trade categories listed in this project are:

**35% SBE**

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are detailed on page 2 of this document.

## Small Business Opportunity Program Reminders

1. Certification. It is the prime contractor's responsibility to verify that all SBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance.
2. Reporting. The successful bidder must submit monthly SBO program participation reports to the Office of Contract Compliance in a manner as prescribed by the OCC monitor of Record.
3. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
4. SBO/EBO Ordinance. The SBO Program is governed by the provisions of the SBO/EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1356 through 2 - 1480. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
5. Supplier Participation. In order to receive full SBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.
6. OCC Registry of Certified Firms. To access OCC's real time registry of vendors (certified or non-certified), visit our PRISM Compliance Management portal at: <https://pro.prismcompliance.com/default.aspx>. Next, click the drop down arrow under "Visit a Jurisdiction", select "City of Atlanta", and click "go!" Once there, you may search by Industry or Certification to obtain your desired results. You may also go to the website: [www.atlantaga.gov/contractcompliance](http://www.atlantaga.gov/contractcompliance) and scroll down to the section heading "Registry of Certified Firms" Click OCC's quarterly list to access the current directory of certified firms.

COVENANT OF NON-DISCRIMINATION

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms SBO-2 and SBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

\_\_\_\_\_  
Signature of Attesting Party

\_\_\_\_\_  
Title of Attesting Party

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the above covenant in my presence.

\_\_\_\_\_  
Notary Public

Seal

FORM SBO-1

[Type text]

### SUBCONTRACTOR CONTACT FORM

List all subcontractors or suppliers (SBE and Non-SBE Certified) that were contacted regarding this project.

Name of Sub-contractor/Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact



**EQUAL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN  
SUBCONTRACTOR/SUPPLIER UTILIZATION**

List all Majority, SBE Certified, and Non-SBE Certified subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NIAC Code	Type of Work to be Performed	Ethnicity of SBE Ownership (see code below)	SBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

Total SBE% \_\_\_\_\_

Code: AABE - African American Business Enterprise, HABE - Hispanic American Business Enterprise, FBE -- Female Business Enterprise, APABE -- Asian (Pacific Islander) American Business Enterprise

Proponent's Company Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_

Proponent's Contact Number: \_\_\_\_\_ Printed Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**(THIS PAGE SHALL BE SUBMITTED FOR EACH SBE FIRM)**

**LETTER OF INTENT**

Small Business Enterprise

**Proponent** Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Firm:** ACDBE Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Contact Person:** Name: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Expiration Date of SBE Certification: \_\_\_\_\_

**SBE is performing as:**  Prime Contractor  Sub contractor  Joint Venture Member

Work item(s) to be performed by SBE	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL SBE			

The bidder/offeror is committed to utilizing the above-named SBE firm for the work described above. The estimated participation is as follows:

SBE contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

**AFFIRMATION:**

The above-named SBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)

\_\_\_\_\_  
(signature) (date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(THIS PAGE SHALL BE SUBMITTED FOR EACH SBE FIRM)

## LETTER OF INTENT

Small Business Enterprise

**Proponent** Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Firm:** ACDBE Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Contact Person:** Name: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Expiration Date of SBE Certification: \_\_\_\_\_

**SBE is performing as:**  Prime Contractor  Sub contractor  Joint Venture Member

Work item(s) to be performed by SBE	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL SBE			

The bidder/offeror is committed to utilizing the above-named SBE firm for the work described above.  
The estimated participation is as follows:

SBE contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

### AFFIRMATION:

The above-named SBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)

\_\_\_\_\_  
(signature) (date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

## **First Source Jobs Program Policy Statement**

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Whereas every contract with the City of Atlanta creates a potential pool of new employment opportunities, the following program is applicable to **construction projects only** and is subject to review by AWDA on a case by case basis for applicability. Once AWDA has made the determination that the First Source Jobs Program is applicable, the successful prime contractor (and all subcontractors associated with the awarded project) is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. **AWDA has determined that the first source Jobs program is applicable for this project.** For more specific information about the First Source Jobs Program contact:

**Michael Sterling  
Executive Director  
First Source Jobs Program  
Atlanta Workforce Development Agency  
818 Pollard Boulevard  
Atlanta, GA 30315  
(404) 546-3000**

**FIRST SOURCE JOBS INFORMATION FORM**

Company Name: \_\_\_\_\_

FC Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

The following entry-level positions will become available as a result of the above referenced contract with the City of Atlanta:

- 1.
- 2.
- 3.
- 4.
- 5.

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program.

Company Representative: \_\_\_\_\_

Phone: \_\_\_\_\_

**THIS AGREEMENT REGARDING THE USE OF THE FIRST SOURCE JOBS PROGRAM BY CONTRACTORS WITH THE CITY OF ATLANTA TO FILL ENTRY LEVEL JOBS is made and entered into by \_\_\_\_\_**

This \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

The City of Atlanta requires the immediate beneficiary or primary contractor for every eligible project to enter into a First Source Jobs employment agreement. The contractor agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs Created by the eligible project will be the First Source Program.
- The contractor will make every effort to fill 50% of the entry level jobs created by this eligible project with applicants from the First Source Program.
- The contractor shall make good faith effort to reach the goal of this employment agreement.
- Details as to the number and description of each entry level job must me provided with the bid.
- The contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.
- The contractor as a condition of transfer, assignment or otherwise shall require the transferee to agree in writing to the terms of the employment Agreement.

Upon a determination that a beneficiary or contractor has failed to comply with the terms of this Agreement, the City may impose the following penalties based on the severity of the non-compliance:

- The City of Atlanta may withhold payment from the contractor.
- The City of Atlanta may withhold 10 percent of all future payments on the contract until the contractor is in compliance
- The City of Atlanta may refuse all future bids on city projects or applications for financials assistance in any form from the City until the contractor demonstrated that the First Source requirements have been met, or cancellation of the eligible project.
- The City of Atlanta may cancel the eligible project.

All terms stated herein can be found in the City of Atlanta Code of Ordinances Sections 5-8002 through 5-8005.

The undersigned hereby agrees to the terms and conditions set forth in this agreement.

\_\_\_\_\_  
Contractor

## APPENDIX B

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# INSURANCE AND BONDING REQUIREMENTS

APPENDIX B  
**INSURANCE & BONDING REQUIREMENTS**  
FC-8744

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

**No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.**

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's rating not less than A-,
- ii) Best's Financial Size Category not less than Class VII, and

- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submits to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

Enterprise Risk Management  
68 Mitchell St. Suite 9100  
Atlanta, GA 30303  
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by

the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management at 68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements Form CG 20 26 07 04 or equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

B. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :

Workers' Compensation. . . . . Statutory

Employer's Liability:

Bodily Injury by Accident/Disease	\$1,000,000 each accident
Bodily Injury by Accident/Disease	\$1,000,000 each employee
Bodily Injury by Accident/Disease	\$1,000,000 policy limit

C. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than \$1,000,000 per occurrence subject to a \$2,000,000 aggregate. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Use of Fire Arms
- Food Liability
- Use of Fire Arms
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Fire Legal Liability
- Medical Expense
- Independent Contractor/Consultants/SubContractor/Consultants
- Products – Completed Operations
- Pesticide or Herbicide Applicator Coverage
- Explosion, Collapse and Underground (XCU) Liability
- Additional Insured Endorsement\* (primary & non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta
- Sexual abuse/molestation

D. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than \$1,000,000 Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either

Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

E. Excess or Umbrella Liability Insurance

Contractor/Consultant shall procure and maintain a policy providing Excess or Umbrella Liability Insurance which is at least as broad as the underlying policy. This insurance, which shall be maintained throughout the life of the contract, shall be in an amount of not less than **\$3,000,000 per occurrence**.

- Coverage must follow form with primary policy
- May be used to achieve minimum liability limits
- Coverage must be as broad as primary policy

F. Installation Floater

Contractor/Consultant shall procure and maintain policy for Installation Floater with all risk coverage to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The coverage must be in an amount equal to **100 percent of the value of the contract**. The following indicated extensions of coverage must be provided:

- All Risk Coverage
- Operational Testing Coverage included
- Loss Payee Endorsement

G. Property Coverage/Inland Marine

Contractor/Consultant shall procure and maintain all risk property coverage in an amount equal to replacement value for all equipment, furniture, fixtures, machinery and/or personal property.

H. Performance Bond and Payment Bond

Contractor/Consultant shall furnish a Payment Bond and a Performance Bond to the City in an amount equal to **100 percent of the total contract value** and for the duration of the entire term.

The person executing the Bonds on behalf of the surety shall file with the Bonds a general power of attorney unlimited as to amount and type of bonds covered by such power of attorney, and certified by an official of said surety. **Be a U.S. Treasury Circular 570 listed company.**